

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM No.A-2140-MA of 2017 (O&M)

Date of decision: December 15, 2017

Ram Karan

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.J.S.Mehndiratta, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Ram Karan has filed this application under Section 378(3) Cr.P.C. seeking permission for leave to appeal against State of Haryana and other respondents, challenging the impugned judgment dated 21.07.2017 passed by learned Sessions Judge, Yamuna Nagar at Jagadhri, vide which appeal filed by accused-respondents against the judgment of conviction 20.11.2014 and order of sentence dated 21.11.2014 passed by learned Sub Divisional Judicial Magistrate, Bilaspur, was allowed and they were acquitted of the charge framed against him.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is, therefore, prayed that leave to appeal be granted.

From the record, I find that FIR was got recorded by complainant Ram Karan and challan was presented against Rajinder Kumar

and other accused under Sections 148, 149, 323, 325, 452, 506 and 109 IPC.

The brief facts of the case as noted down by learned SDJM, Bilaspur, in the judgment are as under:-

“2. The prosecution case in brief is that on 10.08.2006, the complainant Ram Karan son of Narata Ram made a statement before ASI Prem Singh. The complainant stated that on 30.07.2006, at around 10:00 pm, he was taking the dinner along with his children in the verandah of his house. It was at that time when Ravinder Kuamr son of Amar Singh, Rajinder son of Desh Raj, Sukbir son of Ram Kishan, Sunil son of Jagmal, Shashi son of Hari Ram and Rameshwar son of Baisakhi all residents of village Machhrauli entered into the house of the complainant and started to abuse him. It was a khulhadi in the hands of accused Ravinder son of Amar Singh. The remaining accused were having dandas in their hands. The complainant asked the reason behind abusing. Meanwhile, Ravinder inflicted a blow with the kulhadi over the head of the complainant. The complainant was beaten up with dandas by Rajinder and Sukhbir and several blows were given by them to the complainant. A blow with a danda was inflicted on the right hand of the complainant by accused Shashi. The complainant raised the noise for rescue whereupon his father Narata Ram came on the spot. However, accused Sunil and Rameshwar inflicted danda blows over the person of complainant's father Narata Ram. Meanwhile, Ram Karan son of Nihal Singh and Shiv Kumar son of Phool Chand both residents of village Machhrauli arrived on the spot and rescued the complainant and his father from the clutches of the accused persons with much effort. The complainant stated that if Ram Karan and Shiv Kumar had not reached on the spot, the accused persons would have inflicted more injuries on the complainant and his father. The complainant stated that the accused persons left the scene of occurrence extending the treats to kill the complainant on another occasion. The complainant stated that he and his father were taken to govt. hospital, Bilaspur for treatment by Ram Karan son of Nihal Singh. The first aid was provided to the complainant and he was referred to Govt. Hospital, Jagadhari due to multiple injuries sustained by him. It was on 31.07.2006 that the complainant was admitted to MLGH, Yamuna Nagar and x-ray was conducted. The complainant stated that the respectable persons of the village assured to ensure justice to the complainant but nothing happened. It was stated by the complainant that the accused persons inflicted the injuries at the instigation of Maya Ram son of Ram Diya and Master Ramesh Chand son of Ram Diya who belong to the same village. In the MLR bearing NO.MLC/136/R11/2006, dated 31.07.2006, two blunt injuries were described and in the x-ray report No.1786 dated 31.07.2006 a fracture of metacarpal of

the right hand was described. It was on the basis of the above statement of the complainant, MLR and the x-ray report that the instant FIR was registered by sending the Tehrir through HC Nawab Singh. The investigation was initiated by ASI Prem Singh. In the course of investigation, the site of the occurrence was inspected and statements of the witnesses were recorded. It was on 07.09.2006 that the accused persons were duly arrested and produced before the learned Illaqa Magistrate. The accused persons were released on bail by the Court. The accused persons were released on bail by the Court. On completion of the remaining part of investigation, the report under Section 173 Cr.P.C. was filed. ”

The accused were charged under Sections 148, 452, 323, 325, 506 read with Section 149 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Ram Karan, complainant, PW-2 Narata Ram, PW-3 Ram Karan son of Nihal Singh, PW-4 Inspected (Retd.) Naresh Kumar, PW-5 Dr.Rajbir Singh, Retd. Civil Surgeon, PW-6 Zile Singh, PW-7 ASI Prem Singh and PW-8 Dr.Lal Chand.

In the statement under Section 313 Cr.P.C., accused denied all the incriminating evidence against them and pleaded their false implication. In defence, accused examined DW-1 Rajesh Kumar and DW-2 Shiv Kumar Bansal.

Learned SDJM, Bilaspur, after appreciating the evidence, convicted the accused-respondents under Sections 148, 323, 325, 452, 506 read with Section 149 IPC and sentenced them to undergo simple imprisonment for a maximum period of one year under Section 148 IPC. An appeal was filed by accused-respondents and learned Sessions Judge, Yamuna Nagar at Jagadhri, accepted the appeal vide impugned judgment dated 21.07.2017 and acquitted the accused-respondents.

learned Sessions Judge, Yamuna Nagar at Jagadhri, present application seeking to leave to appeal has been filed.

I have heard learned counsel for the applicant and have gone through the record.

From the record, first of all, I find that in this case, the occurrence took place on 30.07.2006 and the FIR was got registered on 10.08.2016 i.e. after delay of 11 days. This delay has not been explained satisfactorily. The grievous injury is on the non-vital part of the body with blunt weapon and there is no cogent explanation regarding the delay. The explanation given by the prosecution side is that talk was going on for compromise in the panchayat, therefore, there is delay in recording the FIR but no witness has been examined by the prosecution to prove that any talk of compromise was going on before the panchayat. Rather, the accused have examined the Sarpanch, who stated that talk of settlement was going on before the police.

Secondly, I find that as per prosecution version, injuries were also given to complainant's father Narata Ram but he was not medico legally examined. Therefore, injuries on the person of Narata Ram are not proved. Further, I find that as per complainant's case, accused Ravinder Kumar was armed with kulhari and other accused were armed with dandas. Ravinder inflicted kulhari blow on the head of the complainant and he was also beaten up by dandas by Rajinder and Sukhbir and several blows were given by them to him. Accused Shashi inflicted a dang blow on the right of the complainant.

As per MLR, there is one injury on the head and other on the finger, which is stated to be grievous. If so many persons armed with

kulhari and dandas, would cause injuries by entering in the house, they would not have caused such type of injuries. There might be some more injuries on the person of the complainant. Therefore, the version of the complainant is not believable. It looks that the delay in the present case has been used to concoct a false version. The version of the prosecution is otherwise contradictory as it is stated that so many blows have been given by the accused, which are not corroborated by the medical evidence.

From perusal of the reasonings given by learned Sessions Judge, Yamuna Nagar at Jagadhri after re-appreciating the evidence, I find that the findings given by learned lower Appellate Court while acquitting the accused-respondent are correct, as per law and evidence. The evidence has been re-appreciated in right perspective. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below. In no way, the findings given by learned Sessions Judge, Yamuna Nagar at Jagadhri, can be held as perverse or against the law.

In view of the above discussion, I find that the impugned judgment dated 21.07.2017 passed by learned Sessions Judge, Yamuna Nagar at Jagadhri, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out to grant permission for leave to appeal and therefore, the present application stands dismissed.

December 15, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No