

CRM-A-1563-MA-2015 (O&M)

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

CRM-A-1563-MA-2015 (O&M)

Date of Decision: November 02, 2017

Kanwalpreet Singh

...Applicant

Versus

Paramjit Singh & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Gagandeep Singh, Advocate for
Mr. Amandeep Singh Manaise, Advocate
for the applicant.

M.M.S. BEDI, J.(ORAL)

CRM-30652-2015

Prayer in this application is for condoning the delay of 10 days
in filing the appeal.

For the reasons mentioned in the application, delay of 10 days
in filing the appeal is condoned.

The misc. application is allowed.

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This is complainant's appeal against order dated 04.06.2015
passed by the Judicial Magistrate Ist Class, Batala, acquitting respondents
No.1 to 5 for offences under Sections 326, 325, 324, 323, 506, 148, 149 of
the Indian Penal Code and 25/27 of the Arms Act.

The grievance of the complainant-appellant is that he was
assaulted by respondents No.1 to 5 on 07.06.2008 when he was cultivating
his land alongwith his father Gian Singh and uncle Ajit Singh. Different

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injuries with sharp edged weapons and blunt weapons have been attributed to the private respondents. The lower Court, after considering the averments in the private complaint and taking into consideration the pre-charge and post-charge evidence, dismissed the complaint on the ground that there is unexplained delay in filing the complaint as the occurrence was dated 07.06.2008 and the complaint sent to the police was dated 16.09.2008. Learned counsel for the appellant has vehemently contended that when no action was taken by the police, the appellant was compelled to file the complaint.

With the assistance of the counsel for the appellant-complainant, we have gone through the complaint (Ex.C-6), which was allegedly sent by the complainant to the S.S.P., Batala, complaining of the occurrence. The postal receipt of the complaint (Ex.C-7) indicates that the complaint had been sent on 16.09.2008, i.e. about 3 months after the date of the occurrence. There is no document available on record produced by the complainant indicating that the matter was informed to the police immediately after the occurrence as grievous injuries had allegedly been received by the complainant.

So far as the injuries received by the complainant is concerned, we have seen his MLR (Ex.C-1) and X-ray report (Ex.C-2), which show that injury No.1 is simple in nature indicating mere pain in the skull region. Injury No. 2 is reported to be as partial cut on the cortex of Tibia bone and has been declared as grievous injury. It is not the case of the complainant that there was any fracture of the bone of the leg. A perusal of the seat of injury i.e. Tibia and the nature of injury i.e. partial cut on the cortex of Tibia

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would indicate that the injury does not fall within the ambit of definition of “grievous” under Section 320 IPC.

In view of the said circumstances, there was no ground for the lower Court to hold respondents No.1 to 5 liable for conviction for inflicting grievous injury warranting punishment under Section 326 of IPC. The said injury apparently appears to be self-suffered injury. The lower Court has rightly disbelieved the story of the complainant and granted the benefit of doubt to the private respondents on account of delay in lodging the complaint. The delay in the present case appears to have been used for deliberations to involve the private respondents in a criminal case of assault. The MLRs were also procured after filing an application before the Judicial Magistrate Ist Class and were not voluntarily sent by the medical authorities to the police.

Keeping in view the aforesaid facts and circumstances, the private respondents were rightly held entitled to the benefit of doubt. No ground is made out for interference in the order of acquittal of respondents No1. to 5. The application for grant of leave to appeal is dismissed.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

November 02, 2017
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No