

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

CRM-A-407-MA of 2014.

Decided on:-05.09.2017.

Bhagwant Singh alias Bhanta Singh.

.....Applicant.

Versus

Gurjinder Singh alias Gugni and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. Kulwinder Singh, Advocate for
 Mr. Rajbir Singh, Advocate
 for the applicant.

HARI PAL VERMA, J.

The applicant has filed the present application under Section 378(4) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 23.01.2014 passed by learned Sub-Divisional Judicial Magistrate, Sunam, whereby the respondents No.1 to 6 were acquitted of the charges framed against them in a criminal complaint filed under Sections 307, 341, 324, 325, 323, 506, 148 and 149 IPC by the complainant (applicant herein).

Briefly stated, it is the case of the applicant-complainant that on 02.10.2007 at about 12.30 p.m., while he was on Patran Road and going to his house, the respondents-accused, namely, Gurjinder Singh alias Gugni, Gurmeet Singh, Rajinder Singh, Sukhwinder Singh alias Sikander, Dalwinder

Singh alias Bindri and Raghvir Singh reached there on a tractor being driven by accused Raghvir Singh. Accused Gurmeet Singh and Rajinder Singh were armed with Kirpans, accused Sukhwinder Singh was armed with Kirch, whereas accused Dalwinder Singh was armed with Soti. Accused Gurjinder Singh raised a Lalkara (exhortation) to teach the complainant a lesson. Accused Raghvir Singh tried to run over the complainant under the tyres of the tractor, but he saved himself by running to the adjoining field. Then all the accused stepped down from the tractor and caused injuries to him (i.e. complainant) with their respective weapons. The complainant raised hue and cry on which Satgur Singh and Tirath Singh came there and on seeing them, all the accused fled away from the spot.

The applicant-complainant was got admitted in Civil Hospital, Sangrur by Satgur Singh, where the police recorded statement of the complainant on 03.10.2007 and assured him to take action against the culprits. However, due to political support of the respondents-accused, instead of taking action against them, the police registered a false case bearing FIR No.184 dated 03.10.2007 under Section 323 IPC etc. against the applicant-complainant and others at Police Station Sadar Sunam. Hence, the complaint.

After recording the preliminary evidence, the respondents-accused were summoned to face trial under Sections 324, 323 and 506 read with Section 34 IPC by learned trial Court. Thereafter, pre-charge evidence was recorded and finding a prima facie case against the respondents-accused, they were charge-sheeted for offence under Sections 148/341/324/323/506/149 IPC, to which they did not plead guilty and claimed trial.

After considering the evidence produced on record and hearing arguments of both the sides, learned trial Court vide judgment dated 23.01.2014 acquitted the respondents-accused of the charge framed against them.

Aggrieved against the aforesaid judgment, the applicant-complainant has filed the present application under Section 378(4) Cr.P.C. for grant of leave to appeal.

Learned counsel for the applicant-complainant has argued that learned trial Court has failed to appreciate the cogent and convincing evidence produced on record by the applicant. The eye-witnesses of the occurrence, namely, Satgur Singh and Tirath Singh had died during the trial. The ocular version of the applicant duly finds support with the medical evidence adduced by Dr. Surjit Singh, Medical Officer, Civil Hospital, Sunam as CW4. However, learned trial Court has dismissed the complaint of the applicant merely on technical grounds. He has prayed for setting aside of the impugned judgment of acquittal and for conviction and sentence of the respondents-accused.

He has further contended that even the police, instead of taking action against the respondents-accused, had registered a false case bearing FIR No.184 dated 03.10.2007 under Section 323 IPC etc. against the applicant-complainant and others at Police Station Sadar Sunam and in that case, the applicant-complainant was convicted and sentenced to undergo imprisonment for a period of one year.

I have heard learned counsel for the applicant-complainant.

Perusal of the record reveals that initially, a DDR dated 03.10.2007 was registered by the police on the statement of applicant-complainant as Ex.D2. The applicant had filed the complaint before the trial Court after a gap of six months from the date of alleged occurrence. The applicant-complainant has alleged that the police had not recorded his statement as per his true and correct version. However, there is nothing on record to suggest that he ever represented any higher officer of the police for not recording his true statement by the local police.

As per the version of the complainant, the alleged occurrence had taken place on 02.10.2007 at about 12.30 p.m., whereas Dr. Surjit Singh (CW4) deposed in the Court that the applicant reached the hospital at about 06.50 p.m. The applicant has also not explained the delay of more than 6 hours in reaching the hospital. Moreover, the applicant has alleged that he was attacked by the respondents-accused, who were 6 in number, and were armed with deadly weapons. It is highly improbable that 6 accused persons armed with deadly weapons had left him with simple injuries only and that too on the non-vital parts of his body.

So far as the argument of learned counsel for the applicant that instead of taking action against the respondents-accused, the police had registered a false case against the applicant in which he has been convicted and sentenced to undergo imprisonment for a period of one year is concerned, it, rather, further substantiates the plea of the respondents-accused raised before the trial Court that the present complaint was filed by the applicant-complainant to mount pressure upon the respondents-accused.

The applicant-complainant has failed to show any misreading of evidence by learned trial Court and has not been able to point out any legal error in the judgment under challenge which may warrant interference by this Court. When there is no evidence to connect the respondents-accused with the alleged crime available on record, no case is made out for interference in the impugned judgment of acquittal dated 23.01.2014 passed by learned Sub-Divisional Judicial Magistrate, Sunam, District Sangrur.

Accordingly, the present application, being devoid of any merit, is dismissed. Leave to appeal is declined.

September 05, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No