

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

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CRM-A No.533-MA of 2014 (O&M)
Date of Decision: October 31st, 2017

Hakam Singh

...Applicant

Versus

State of Punjab and others

...Respondents

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

Present: Mr. Sant Pal Singh Sidhu, Advocate
for the applicant.

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

An appeal, along with an application under Section 378 (4) of the Criminal Procedure Code for leave to appeal, has been filed aggrieved by the acquittal of respondent Nos.2 to 6 of the charges framed in a private complaint filed by the appellant under Section 148, 326, 324, 323 read with Section 149 of IPC.

The private complaint was filed by the appellant on the allegations that on 01.08.2007, complainant along with Jasbir Singh was going to his fields to collect fodder. On reaching near the house of Principal Surjeet Singh, they were waylaid by respondent Nos.2 to 6. Harjinder Singh @ Pindi-respondent No.6 was allegedly armed with *gandasa*, whereas remaining accused were armed with sticks. Accused Suba Singh raised *lalkara*. Pursuant to the *lalkara* of Suba Singh, Rajinder Singh gave a *gandasi* blow on the ring and little finger of the appellant-complainant. Suba Singh also gave stick blow on the right shoulder of the complainant. On intervention of Jasbir Singh, accused Rajinder Singh allegedly gave three *gandasa* blows on his right leg, head and left biceps. Major Singh, Pritam Singh, Mohinder Singh allegedly inflicted injuries to Jasbir Singh with their respective weapons. On alarm

having been raised by appellant and Jasbir Singh, all the assailants allegedly fled away from the spot with their weapons.

Counsel for the appellant has vehemently contended that respondent Nos.2 to 6 have been acquitted despite medical evidence produced on the record indicating that appellant-Hakam Singh had received three injuries and Jasbir Singh had received 5 injuries as per the MLRs produced on the record.

With the assistance of counsel for the appellant, we have gone through the record and find that the appellant along with Balwant Singh, Karam Singh, Jaswant Singh, Surjeet Singh and Jasbir Singh was booked in a criminal case under FIR No.105 dated 01.08.2007 under Sections 148, 325, 324, 323 and 149 IPC registered at Police Station Mehna on the allegations that the appellant along with above said accused had assaulted Suba Singh complainant in the State case on 01.08.2007. They were convicted vide order dated 10.02.2014. The plea of the appellant-complainant appeared to be in the shape of defence evidence in order to establish the defence that the opposite party was the aggressor party and that the injuries have been received by the appellant and Jasbir Singh.

We have gone through the judgment of acquittal passed by the lower Court and examined the injuries relating to complainant and Jasbir Singh which have been thoroughly considered by the lower Court while arriving at a conclusion that the injuries on the person of complainant and Jasbir Singh were improbable and had apparently been manufactured just to constitute a defence in a cross case. On asking of the Court, it has been informed that appellant and his co-accused have been granted concession of probation by the First Appellate Court in the appeal against the conviction order.

Irrespective of the said fact, we, on appreciation of the evidence produced in the private complaint, are of the opinion that it is not a case where upon re-appreciation of the evidence, this Court could arrive at a conclusion different from the one arrived at by the trial Court. The injuries attributed to respondent Nos.2 to 6 are, on the face of it, are simple and the story of the complainant appears to be improbable. No ground for interference in order of acquittal passed by the lower Court rendered vide judgment dated 10.02.2014 is made out.

The application seeking leave to file appeal accordingly fails and is dismissed as such.

(M.M.S. BEDI)
JUDGE

October 31st, 2017
Puneet

(AUGUSTINE GEORGE MASIH)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No