

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

CRM-A-600-MA of 2017

Date of decision: September 11, 2017

Shashipal Singh

....Applicant

Versus

Surinder Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Balbir Singh Jaswal, Advocate
for the applicant.

RAMENDRA JAIN, J.(ORAL)

Through this application under Section 378(4) Cr.P.C. prayer has been made for grant of leave to appeal.

Briefly stated, the applicant filed a complaint under Sections 452, 382, 427 and 506 IPC against respondent and one Darshan Singh, who died during trial before the trial Court and thus, proceedings against him stood abated on the allegations that the respondent was nourishing grudge against him on account of filing a civil suit against respondent titled as *Shashipal Singh Vs. Surinder Singh and another*. Therefore, on 28th August, 2012, respondent armed with a *gandasi* with his co-accused, armed with a *dang* trespassed into the house of the applicant and extended threat to him to vacate the house. The respondent and his co-accused after breaking the locks of his house, entered forcibly, and threw his household articles and also stolen away some of the articles. The applicant, in support of his case, examined him as CW-1 followed by eye-witness Manjit Singh as CW-2. In his statement under Section 313 Cr.P.C., respondent denied all the incriminating evidence came on record against him and pleaded his innocence.

After hearing both the sides, the trial Court dismissed the complaint vide impugned judgment dated 8th February, 2017.

Learned counsel for the applicant submitted that the impugned judgment is based on conjectures and surmises. Trial Court has wrongly acquitted the respondent on cryptic grounds.

After giving anxious consideration to the submissions made by learned counsel for the applicant, I find that the instant application is completely devoid of any merit for the reasons to follow.

For ready reference, the findings of the trial Court are reproduced hereunder:-

“Perusal of the file shows that in the present complaint, the complainant himself examined as CW-1 and he specifically stated that on 22.08.2012 at around 08:00 a.m., incident has taken place and he made the complaint in Police Post Udhoke at around 09:00 a.m. on the same day. During his cross-examination, one document Ex.D1 was put to CW1 Shashipal Singh, which is stated to be complaint moved to Chowki Udhoke, on 22.08.2012 and during the cross-examination when this document was shown to the complainant, he stated that on the Mark D1, his mobile number is mentioned, but he has not identified his signature. However, perusal of the file shows that the signatures affixed on the document mark D1 and the signatures affixed by the complainant in his evidence are similar. During his cross-examination, he further admitted that the application dated 22.08.2012 and 25.08.2012, he has not mentioned the detail of the articles stolen and neither he has mentioned anything about the cash. Perusal of the file further shows that Ex.C12 is the copy of the application dated 25.08.2012, moved by the complainant to the Senior Superintendent of Police, Amritsar, in which he has stated that the accused persons have broken the locks of his house and thrown away the articles, but this document does not show which articles have been thrown by the accused. Perusal of the file further shows that during his cross-examination, he has specifically admitted that he has not mentioned about Rs.105000/- in his complaint. He further stated that he has purchased the Fridge from Manjit Singh for Rs.6500/-, but he has not placed on record any receipt regarding purchase of the Fridge. He further stated that he has not produced on record any bill of any articles stolen by the accused persons. Perusal of the file further shows that CW1 in his evidence has specifically stated that when he returned from

the Police Station, then some of the articles were thrown out from his house and some of the articles were being carried by the accused, but he has not mentioned, which articles were thrown and which articles were carried away by the accused persons. Perusal of the file further shows that the complainant has placed on record certain photographs, which are Ex.C1 to Ex.C10, but in the said photographs, broken locks of the house of the complainant are not depicting. Remaining photographs i.e. Ex.C5 and Ex.C6 are showing certain articles lying on the bed and it contains one Fridge, bag etc. These articles are lying in the open. As per the facts of the complaint, the police post Udhoke inspected the spot. Perusal of the file shows that in photographs Ex.C3 and Ex.C4, the police officials are shown and one Cot having Fridge and other articles also, meaning thereby when the police reached at the spot, at that time Fridge and other articles were lying there and the Fridge was not taken away by the accused.

12. Perusal of the file further shows that CW2 Manjit Singh in his evidence has specifically stated that in March, 2012, he has sold the fridge received from Coca Cola Company in the promotional scheme for Rs.6500/- to the complainant, but during his cross-examination, he has specifically stated that he does not have any bill relating to promotion of Coca Cola or purchase of Coca Cola, vide which the fridge was received by him from Coca Cola Company”.

Learned counsel for the applicant has not been able to point out even a single infirmity in the aforesaid findings of the trial Court. It is evident on the record that the allegations levelled by the applicant in his complaint were contrary and altogether different from the allegations which he had levelled against the respondent in his applications dated 22nd August, 2012 and 25th August, 2012 to the Police.

In view of above discussion, application stands dismissed.

September 11, 2017
m. sharma

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No