

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

CRM No.A-621-MA of 2017 (O&M)

Date of decision: September 25, 2017

Smt.Sushila

...Applicant

Versus

Sh.Jai Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Parminder Singh, Advocate
for the applicant.

INDERJIT SINGH, J.

Applicant-Sushila has filed this application under Section 378 (4) Cr.P.C. seeking permission for leave to appeal against Jai Singh and other respondents, challenging the judgment dated 21.02.2017 passed by learned Judicial Magistrate Ist Class, Charkhi Dadri, whereby the complaint filed by the applicant-complainant was dismissed and accused-respondents were acquitted.

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.

As per the record, the complainant Sushila filed a complaint against Jai Singh and other accused under Sections 147, 148, 149, 323, 325, 452, 341, 307 and 506 IPC. The brief averments of the complaint as noted

down in the judgment passed by learned JMJC, Charkhi Dadri, are as

under:-

“2. The brief facts of the case are that on 03.2.2013 at about 8:30 AM the accused persons were illegally closing the passage of their plot and when the complainant objected, then they gave her abuses and also gave fist and slap blows. She went inside her house and told thing regarding closing of passage to her husband on telephone. When she came out of her house, then accused Ramesh who was having danda in his hand and Jai Singh was holding axe in his hand. Two-three other persons were also with them. Ramesh gave a danda blow on her legs and Jai Singh gave an axe blow on her neck. She raise a noise, on hearing the same Anil and Neeraj came and rescued her from the clutches of the accused. The accused also threatened to kill her. Thereafter the complainant was got admitted in G.H. Charkhi Dadri for treatment. The police came, but not recorded her statement as per her stating. The police has not taken any action in connivance with the accused. Hence the present complaint.”

On the basis of preliminary evidence, only accused Jai Singh and Ramesh were summoned vide order dated 18.07.2016 to face trial under Sections 323, 341, 506 and 34 IPC. The complainant examined PW-1 Neeraj Kumar, PW-2 Anil, herself as PW-3, PW-4 Dr.Rajeev Beniwal and her husband Jagmender as PW-5. Learned trial Court famed the charges against the accused under Sections 323, 324, 341, 506 and 34 IPC, to which they pleaded not guilty and claimed trial. In after charge evidence, PW-2 Anil was recalled and cross-examined.

In the statement under Section 313 Cr.P.C., accused pleaded themselves innocent and their false implication.

Learned JMIC, Charkhi Dadri, after appreciating the evidence, dismissed the complaint and acquitted the accused-respondents vide impugned judgment dated 21.02.2017.

Aggrieved from the above-said judgment, present appeal along

with application for grant of leave to appeal has been filed.

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

The perusal of the findings given by learned Magistrate shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. 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. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned Court below.

From the perusal of the record, I find that PW-5 Jagmender, who is husband of the complainant, deposed that he was not present at the time of occurrence. PW-1 Neeraj Kumar also deposed that injuries were not given in his presence. Rather, when he reached after hearing noise, Sushila told him that injuries were caused to her by the accused. Qua PW-2 Anil, though, he stated that injuries were given by the accused in his presence but learned Magistrate discussed the evidence on record and found that even the complainant has stated that these witnesses came after the causing of the injuries and they were not present at the time of causing of injuries.

Further, from the evidence on record, I find that the Doctor has also proved the MLRs of accused Jai Singh and Ramesh and their respective wives, which are Ex.A1 to A4, which shows that in the same occurrence, the accused party has also received injuries and FIR was also registered but the perusal of the complaint nowhere explains as to how the injuries were received by the accused. As per complainant Sushila, she was alone at the time of occurrence. The injuries on the person of accused have not been

prosecution. The occurrence is of 03.02.2013 and the complaint has been filed on 23.03.2013 i.e. after delay of 1 month and 20 days and there is no cogent evidence on the record to explain this delay.

From the perusal of the judgment passed by the Court below, I find that the findings have been given by correctly appreciating the evidence in right perspective and accused-respondents have been rightly acquitted. In no way, the judgment can be held as perverse or against the evidence.

In view of the above discussion, I find that the impugned judgment dated 21.02.2017 passed by learned JMIC, Charkhi Dadri, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

September 25, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No