

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

CRM-A No.710-MA of 2014 (O&M)

Date of decision: 11.09.2017

Mukhtiar Singh and others

....Applicants/Appellants

Versus

Bant Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.D. Sharma, Advocate
for the applicants/appellants.

ARVIND SINGH SANGWAN J. (Oral)

CRM No.13991 of 2014

Prayer in this application is for condoning delay of 05 days
in filing the appeal.

Heard.

In view of averments made in the application supported by
an affidavit of Rajeev Dev Sharma, Advocate, the application is
allowed and delay of 05 days in filing the appeal stands condoned.

CRM-A No.710-MA of 2014 (O&M)

Heard.

Leave to appeal granted.

Registry is directed to number the same as main appeal.

This is an appeal arising out of the judgment dated
20.01.2014 vide which the trial Court has acquitted the
respondents/accused in criminal complaint No.203/1 of 14.11.2007
under Sections 166, 217, 341, 342, 406, 427, 447, 505, 148, 149 read
with Section 120-B of the Indian Penal Code, 1860 (in short 'IPC').

Brief facts of the case are that the appellants/complainants have filed a complaint with the allegation that they are co-owners in possession of land bearing Khewat No.90, Khatauni No.120 and Khasra No.481, total measuring 40 kanals situated in village Chhatwal, H.B. No.381 as per jamabandi for the year 2003-04. The predecessor of the complainant had filed a civil suit No.61 dated 06.03.2007 against the respondents/accused persons which is pending before the Civil Court at Pathankot and the Civil Court had directed the parties to maintain *status quo* regarding the possession. It is further submitted that the accused persons in conspiracy with each other trespassed the land of the complainants and ploughed the tomato crop in Khasra No.481 and got an FIR No.43 dated 19.06.2007 registered. It was further alleged that the accused have not allowed the complainants to harvest the crop standing in Khasra No.481 and later on, on 17.10.2007, have removed the crop from the aforesaid Khasra No.481 valuing Rs.10,000/-. The complaint was accordingly filed with the allegation that the accused persons have criminally trespassed in the land belonging to the complainants and have removed the crop and threatened to involve them in a false case.

The trial Court after allowing the complainant to lead the preliminary evidence, vide order dated 27.08.2008 summoned accused Nos.1 to 4, 6 and 7 under Sections 166, 217, 341, 342, 406, 427, 447, 506, 148 and 149 IPC whereas complaint against accused No.5 was dismissed. Later on, in pre-charge evidence, the complainant examined himself as CW1, Rachhpal Singh as CW2 and Dilbar Singh as CW3.

Thereafter, the accused persons were charge-sheeted vide order dated 26.11.2013 and their statements under Section 313 Cr.P.C. was recorded.

The trial Court after hearing the counsel for the parties while acquitting the respondents/accused vide impugned judgment dated 20.01.2014 recorded the following findings:-

“The main allegation of the complainant against the accused is that accused No.1 to 4 in connivance with accused No.5 to 7 illegally confined the complainant, but all the witnesses during cross-examination admitted that on the complaint of accused the FIR was registered against the complainant and the police officials after getting the bail bonds released them and CW1 also admitted that in the said case inquiry was conducted by DSP and after inquiry DSP agreed that the FIR was registered by the police officials. CW1 also admitted during cross-examination, whoever have furnished the bail bonds SHO released him on bail and no body has illegally detained them in custody. Admittedly, there is a civil dispute between the parties regarding Khasra No.481, 478 and 479 and the FIR was registered against the present complainants though they have acquitted from the charges, therefore, there are chances of filing the present complaint being counter blast of the state case and no medical evidence is on the file regarding injuries caused by the accused to the complainant. In these circumstances, the complainants have failed to prove the guilt of the present accused beyond shadow of any reasonable doubt and it is the cardinal principle of criminal jurisprudence that in case there is a doubt in the prosecution story, the accused are entitled to benefit of doubt, accordingly, this Court has

no other option except to acquit the accused of the charges framed against them by giving them benefit of doubt and the present accused stands acquitted of the charges framed against them. Bail bonds and surety bonds of the accused be discharged. File be consigned to the Record Room.”

Counsel for the appellants has submitted that it is proved from the statement of the complainant – Rachhpal Singh as CW2 which is supported by CW1 Karnail Singh and CW3 Dalbir Singh that the accused persons in conspiracy with each other forcibly entered in the land owned by the complainant and detained him in illegal confinement from 30.09.2007 to 02.10.2007 and caused loss to the crop owned by the complainant and as such, they are liable to be punished.

After hearing counsel for the appellants and perusing the record, I do not find any merit in the present appeal. It is a matter of record that an FIR was registered against the complainant on the application given by the accused persons and an enquiry was conducted by DSP in this regard. CW1 has admitted in his cross-examination that after registration of the FIR, the concerned SHO immediately released the complainant party on furnishing their bail bonds and, therefore, no case for illegal detention is made out. It is also an admitted position that a civil dispute between the parties regarding Khasra Nos.481, 478 and 479 is pending and one FIR was registered by the accused persons; whereas the present complaint was filed by the complainants both pleadings their respective possession over the property in dispute and, therefore, offence under Section 447 IPC is not made out as the complainant could not prove his exclusive possession over the disputed

khasra numbers. There are material contradiction in the statement of prosecution witnesses regarding the description of the incident given by them which makes the case of the prosecution doubtful. Moreover, the respondent/complainant has failed to lead any evidence that he was kept in wrongful confinement by the accused persons and, therefore, no offence punishable under Sections 427,447, 341 read with Sections 148 and 149 is made out. The trial Court has rightly acquitted the respondent/accused of the charges and the appeal is ordered to be dismissed.

11.09.2017
yakub

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No