

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

Criminal Misc. No.A-774-MA of 2017

Date of Decision : July 03, 2017

Gurdeep SinghApplicant

VERSUS

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE HARI PAL VERMA

Present : Mr. R.K. Saini, Advocate

T.P.S. MANN, J.

Complainant-Gurdeep Singh 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 26.10.2016 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri.

Vide impugned judgment, learned trial Court acquitted accused/respondents No.2 and 5 to 10 of the charges under Sections 148, 149, 452, 323, 325, 307 and 506 IPC, whereas accused/respondents No.3 and 4 were acquitted of the charges under Sections 148, 149, 452, 307 and 506 IPC. At the same time, the said accused/ respondents were convicted under Sections 323/34 IPC and sentenced to undergo imprisonment for 6 months each and under Sections 325/34 IPC to undergo imprisonment for 3 years each.

According to the prosecution, on 31.3.2011 at about 8.00 p.m., the accused/respondents entered the house of

complainant Gurdeep Singh and gave beatings to his wife. When the complainant tried to rescue her, Joginder Singh raised lalkara to finish the complainant and his wife. On hearing this, Des Raj inflicted blow with an iron rod on his head, whereas Joginder Singh also gave a blow with iron rod on his head. Chhotia Ram gave a lathi blow on the left arm of the complainant. Phool Singh gave a lathi blow on his left shoulder. Ravinder accused gave iron rod blow on the fingers of right hand of the complainant. The other accused also caused injuries to him and his wife with lathies and iron rods. The hue and cry raised by the complainant and his wife attracted the villagers and on seeing them, the accused left the spot after extending threats to them. The complainant's wife called her brother Labh Singh, who transported them to Civil Hospital, Yamuna Nagar. Due to serious injuries sustained by the complainant, he was shifted to Gaba Hospital on 4.4.2011. The police recorded his statement on 6.4.2011 but did not initiate any action against the accused persons.

It may be worthwhile to mention here that occurrence in question had taken place during night time on 31.3.2011 in the area of village Kunjal. Two persons, namely, complainant Gurdeep Singh and his wife Santosh received injuries at the hands of the accused. However, first version of the incident was given to the police on 1.4.2011 by Des Raj accused that the incident took place in his house when he was having dinner in the verandah with his wife Kulwant Kaur and their son Ravi. At that time Gurdeep Singh

was armed with iron rod who started hurling abuses, besides causing injuries to them, i.e. Des Raj, his wife Kulwant Kaur and their son Ravi. On the other hand, the version from the side of the complainant party by way of the statement of complainant Gurdeep Singh was recorded by the police on 6.4.2011. In the said statement complainant Gurdeep Singh had alleged that after closing his shop he reached his house and saw that accused Chhotia Ram, Des Raj and others were beating his wife, upon which he tried to rescue her. Des Raj, who was carrying an iron rod in his hand gave its blow on his head, whereas Ravi gave lathi blow to his wife.

From the evidence led on record it is made out that the incident had taken place in the house of complainant Gurdeep Singh in which rooms of the accused party, namely, Des Raj and others were also situated. From the side of the complainant, Gurdeep Singh and his wife Santosh Devi had sustained seven injuries in all, out of which two injuries were shown as complaints of pain and one injury was simple in nature. On the other side, three persons had received injuries, including two fractures upon Des Raj accused and his wife Kulwant Kaur. However, fact remains that the initial version from the side of the complainant was projected before the police only on 6.4.2011. However, after thorough investigation the said version given by the complainant was found to be false. It was only on 5.8.2011 that the complainant filed the private criminal complaint. The inordinate delay in reporting the matter to the police and even filing of the complaint are indicative

of the fact that the complainant party had spread the net too wide to falsely implicate one and all from the side of the accused respondents. Therefore, no case is made out for any interference in the impugned judgment to the extent of acquitting respondents No.2 and 5 to 10 of the charges against them.

It is true that complainant Gurdeep Singh had suffered a lacerated injury over his left parietal region, besides another lacerated wound in between middle finger and ring finger of his right hand. PW8 Dr. Shalini Mittal had testified that after seeing X-ray report of Gurdeep Singh, she found fracture in his right ring finger. Apparently, injury received by Gurdeep Singh over his left parietal region was simple in nature. Under these circumstances, it cannot be said that respondents No.3 and 4 were liable of committing the offence under Section 307 IPC. They have been rightly convicted for committing the offences under Sections 323/34 IPC and 325/34 IPC.

In view of the above, there is no merit in the application, which is, accordingly, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(HARI PAL VERMA)
JUDGE

July 03, 2017
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Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO