

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

CRM No.A-665-MA of 2012 (O&M)

Date of decision: November 30, 2018

Rajinder Parshad

...Applicant

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ravi K. Mattoo, Advocate for
Mr.O.P. Gupta, Advocate
for the applicant.

Mr.Pradeep Sharma, AAG, Haryana
for respondent No.1-State.

Mr.Tarun Sharma, Advocate for
Mr.P.S.Jammu, Advocate
for respondent No.2.

INDERJIT SINGH, J.

Applicant-Rajinder Parshad has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents State of Haryana and Bansi Lal, challenging the judgment dated 25.02.2012 passed by learned Addl. Sessions Judge, Fast Track Court, Sirsa, whereby accused-respondent was 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.

From the record, I find that challan was presented against

accused Bansilal in case FIR No.183 dated 16.10.2009, under Sections 332, 186, 353 and 333 IPC. The brief facts of the case as noted down in the judgment passed by learned Addl. Sessions Judge, Fast Track Court, Sirsa, are as under:-

“1. The present case was registered on the statement Ex.PC made by Rajender Parshad (complainant) son of Partap Singh inter-alia on the submissions that he is employed as Deputy Manager (Accounts) in Haryana Scheduled Caste Finance and Development Corporation, Sirsa. On 10.9.2009, he went to Dabwali for recovery of loans and issued receipt of Rs.40/- in favour of Teejo Devi, mother of Bansilal qua recovery of loan and while collecting loan amount from others, he went to the shop of Hans Raj Regar in a street near Bus Stand and after issuing a receipt to some one regarding collection of loan amount, started towards Bus Stand and at about 3.00/4.00 P.M. when he reached near Bus Stand, Bansilal met him and inquired from him whether they used to give loan only to persons of below poverty line and when the complainant replied in positive, Bansilal got annoyed suddenly and inflicted a blow of Rampi (a tool for cutting leather), which hit on the abdomen of the complainant. This incident was witnessed by Kamlesh wife of Rajender, Vinod Kumar son of Baldev Krishan, Udhvir son of Ajit Singh, Sant Lal son of Sultan Singh, Amar Nath son of Jassu Ram, Puran Chand son of Daulat Ram and one Sandeep Pareek. Accused Bansilal thereafter fled away from the spot while leaving said Rampi in the abdomen of the complainant. The complainant was shifted to Govt. Hospital, Dabwali from where he was referred to Govt. Hospital, Sirsa and on 12.9.2009, he was further referred to Maharaja Aggarwain Hospital, Delhi, where the complainant remained under treatment upto 19.9.2009 and thereafter, complainant used to visit hospital at Delhi for

treatment upto 7.10.2009 and the doctor concerned advised him to take maximum bed rest and to avoid heavy working. On the basis of said statement, initially the present case under Sections 332/353 of IPC was registered against the accused. Investigation was set into motion and during investigation, after finding the injury to be grievous on the person of complainant, Sections 186/333 IPC were added in the present case. The accused was arrested on 19.11.2009. After completion of necessary investigation, challan was presented in the Court.”

Finding prima facie case, the accused was charge-sheeted under Sections 333 and 353 IPC, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Dr.Rahul Singla, PW-2 SI Bhagirath, PW-3 Mahabir Parshad, PW-4 Radhey Sham, Draftsman, PW-5 Rajender Parshad, complainant-injured, PW-6 Kamlesh, PW-7 Dr.Arush Arora, PW-8 Dr.Jiwan Garg, PW-9 Inspector Virender Singh, PW-10 Dr.Munish Singla, PW-11 Dr.Sanjeev Kumar and PW-12 SI Krishan Lal.

At the close of prosecution evidence, the accused was examined under Section 313 Cr.P.C. and confronted with the evidence of the prosecution. He denied the correctness of the evidence and pleaded his innocence. In defence, accused examined DW-1 Smt.Teejo and DW-2 Perhlad.

Learned Addl. Sessions Judge, Fast Track Court, Sirsa, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 25.02.2012.

Aggrieved from the above-said judgment, present appeal along

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

Notice of the application was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the application.

Lower Court record was also requisitioned.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The perusal of the findings given by learned Addl. Sessions Judge, Fast Track Court, Sirsa 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. At the time of arguments, nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the trial Court. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned trial Court.

From the record, I find that the occurrence in the present case has taken place on 10.09.2009. Complainant-injured remained admitted in the hospital till 19.09.2009. It is the case of the complainant that thereafter, he used to visit at Delhi for treatment upto 07.10.2009. The FIR in the present case has been got registered on 16.10.2009. There is long delay from 10.09.2009 to 16.10.2009. There is no cogent explanation by the prosecuting for such a long delay. Learned counsel for the complainant contended that complainant was advised rest by the doctor, therefore, he did not go to the police station earlier but this explanation given by the complainant, cannot be believed. As per complainant version, his wife and

brother-in-law (wife's brother) were stated to be eye witnesses to the

occurrence. They could have easily reported the matter to the police, even if it is taken that complainant was under treatment. Furthermore, even if it is taken that complainant was under treatment and he was going to Delhi, then he could have easily gone to the police station also.

Learned trial Court has reached to the conclusion that how complainant's wife Kamlesh and his brother-in-law Vinod Kumar reached on the spot. They were not having their house nearby the place of occurrence. There is only one injury on the person of the complainant. Moreover, as per complainant version, there are other independent witnesses also but none of them has been examined. Only complainant and his wife have deposed against the accused. Even complainant's brother-in-law Vinod Kumar has not been examined.

Learned trial Court also pointed out discrepancies in the statements of the witnesses, as Kamlesh has stated that *rampi* has been left by the accused in the abdomen but *rampi* was not taken into police possession by the police. Even Kamlesh and Vinod Kumar, present on the spot and are eye witnesses, then why the complainant-injured was taken to hospital by one Sandeep Pareek and not by complainant's wife and brother-in-law.

In view of the above discussion, I find that prosecution has failed to prove its case beyond reasonable doubt. 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-respondent has been rightly acquitted. In no way, the judgment can be held as perverse or against the evidence.

judgment dated 25.02.2012 passed by learned Addl. Sessions Judge, Fast Track Court, Sirsa, 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.

November 30, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No