

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-1088-MA of 2013 (O&M)

Date of decision : 18.1.2018

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Jarnail Singh

.....Appellant

vs.

Daleep Singh and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Gurcharan Dass, Advocate for the appellant

Mr. H.S. Tuli, Advocate for the respondents.

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H. S. Madaan, J.

Complainant – Jarnail Singh had brought a criminal complaint against Daleep Singh, Mukhtiar Singh, Nahar Singh , Gurpreet Singh, Harbinder Singh, Balwant Singh, Harwinder Singh and Gurnam Singh, on the allegations that he has an ancestral house at village Rara, Tehsil Payal, situated within red line of the village. Earlier the said house was kacha one, however, subsequently, pucca construction was raised, however shutters of the doors were not affixed. While the complainant had gone to see his sister at Samrala, on 10.1.2000, in his absence on the intervening night of 10/11.1.2000, all the accused trespassed in his house and demolished the boundary wall taking away 3 quintals of saria (iron rods) and 13 bags of cement, despite a protest being lodged by Sapinder Kaur wife

of the complainant and his two daughters; that they had even given slaps to wife and abused daughters of the complainant. The motive behind the incident was that water from the houses of majority of the accused was to be discharged in the pond through the drain to be constructed in the land of the complainant, whereas Harwinder Singh and Gurnam Singh were helping them. Though the matter was reported to the police by Sapinder Kaur, by moving a complaint to DSP, Payal, on 11.1.2000, but to no effect.

After recording of preliminary evidence all the accused were ordered to be summoned to face trial for offences under Sections 457, 380, 323, 506, 427, 148, 149 IPC. The accused put in appearance. The case was fixed for pre-charge evidence. The complainant accordingly adduced the evidence and thereafter closed the same. Charge for offences under Sections 457, 323, 380, 427, 506, 148, 149 IPC were framed against all the accused, to which they pleaded not guilty and claimed trial. However, no after charge evidence was adduced by the complainant, despite availing of several opportunities. Rather learned counsel for the complainant closed the same by making statement dated 10.1.2012. After recording statements of accused under Section 313 Cr.P.C. and allowing the accused to lead evidence in defence. Vide impugned judgment dated 11.7.2012, the accused were acquitted of the charge framed against them for the reason that no evidence was led by the complainant after framing of the charge and even complainant Jarnail Singh had not turned up despite being directed to do so several times.

Feeling aggrieved by the said judgment, the complainant has

approached this Court by moving an application for Special Leave to Appeal, notice of which was given to the respondents.

The application has not been filed within time. There is a delay of 435 days in approaching this Court. Though an application has been filed under Section 5 of the Limitation Act, for condonation of delay, for the reason that the appellant has been residing in UAE and for that reason considerable time was consumed in sending the documents and filing of appeal. But I do not find such reasoning to be justified. The application for Special Leave to Appeal is bound to be dismissed being time barred.

However, on merits also, the complainant does not have any case. The evidence adduced by him was before framing of charge, which was taken into consideration, as to whether prima facie any charge was disclosed against the accused or not. After framing of charge, no evidence was adduced by the complainant, rather the same was closed by his counsel. Then it is to be taken that it is a case of no evidence. The trial Court by giving detailed reasoning has passed order of acquittal against the accused, which does not deserve to be interfered with, by granting Special Leave to Appeal.

Therefore, the application seeking Special Leave to Appeal stands dismissed.

(H.S. Madaan)
Judge

18.1.2018

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Whether speaking / reasoned

Yes/ No

Whether reportable

Yes/ No