

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

CRM No.A-487-MA of 2013 (O&M)

Date of decision: November 13, 2018

Charanjeet Kaur

...Applicant

Versus

Punjab Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.T.C.Dhanwal, Advocate
for the applicant.

Mr.Abhinav Kalia, Advocate
for the respondents.

INDERJIT SINGH, J.

Applicant-Charanjeet Kaur has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Punjab Singh and other respondents, challenging the judgment dated 20.05.2013 passed by learned Chief Judicial Magistrate, Fatehabad, whereby 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, complainant Charanjeet Kaur filed a complaint against accused Punjab Singh, Bittu, Manjit Kaur, Paramjeet Kaur, Amarjeet Kaur, Satnam Singh, Beant Kaur and Krishna under

Sections 323, 506, 342 read with Section 34 IPC (proceedings against accused Inder Singh were dropped vide order dated 03.12.2012). The brief averments of the complaint as noted down in the judgment passed by learned CJM, Fatehabad, are as under:-

“This complaint was moved before the then learned Chief Judicial Magistrate, Fatehabad on dated 2.06.2007, with the allegations that on dt. 05.05.2007, at about 1.00 p.m., the complainant was returning to her house in village Mohammad Pur Sottar, from a Sewing-Centre. The nine accused-Inder Singh, Punjab Singh, Bittu, Manjit Kaur, Paramjeet Kaur, Amarjeet Kaur, Satnam Singh, Beant Kaur and Krishna intercepted her and dragged her along with her bicycle, to their house. They hit slaps, fists and danda blows on her face, abdomen, chest and back. They snatched wrist-watch, a ring, the bicycle and the sewing-machine of the complainant. They tried to kill her by strangulating her neck and raised threat of life and stated that they (complainant and her family) be taught a lesson for purchasing a plot in front of their house. When she raised shouts of bachao-bachao, Mahender Kaur wife of Gurdeep Singh, Succha Singh son of Sher Singh, resident of Dhani Raipur, Mahender kaur wife of Amarjeet, Harpal son of Gurdeep and Sukhvinder Kaur daughter of Gurdeep Singh and other neighbourers rescued her from the clutches of accused. After that, she was carried to the civil hospital, by her mother and got admitted there.

Finding the house in an abandoned state, the accused did away with two spades, two taslas, one sabbal, one tagli, four karis and some important documents. The facts were transpired to her father, by her younger sister and brother, when returned in night.

The reason behind this assault was that the accused wanted to purchase the plot no.290, situated in front

of their house, whereas family of complainant purchased the same from Sardara Singh son of Channan Singh and since then, the accused started bearing enmity against the family of complainant. Previously also, the accused had indulged in quarrel with the complainant party. The police was also informed, but no action was taken against the accused. In this manner, the accused committed offences punishable under Sections 342, 323, 354, 363, 383, 448, 380 and 506 of IPC, read with section 34 of IPC. So, legal action was called for against the accused.”

The accused were summoned under Sections 323, 448, 506 read with Section 34 IPC. In pre-charge evidence, complainant examined herself as PW-1, PW-2 Mahender Kaur, mother of the complainant, PW-3 Gurdeep Singh, father of the complainant, PW-4 Succha Singh, eye witness, PW-5 EHC Sheesh Pal and PW-6 Dr.Chander Bhan. Finding prima facie case, the accused were charge-sheeted under Sections 323, 342 and 506 IPC read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

In after charge evidence, the complainant and her mother were cross-examined as PW-1 and PW-2. Complainant also examined PW-3 MHC Amit Kumar for brining the record but no record was produced. At the close of complainant evidence, the accused were examined under Section 313 Cr.P.C. They were confronted with the evidence of the complainant and they denied all the incriminating evidence against them. Accused also tendered documents; certified copy of complaint titled as Gurdeep Singh vs. Pratap Singh etc. Ex.D1, copy of report submitted by S.P. Fatehabad to DGP, Haryana Ex.D2, and documents Mark-A to Mark-E.

Learned CJM, Fatehabad, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 20.05.2013.

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 counsel for the respondents appeared and contested the application.

Lower court record was also requisitioned.

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

The perusal of the lower Court record shows that three injuries were found on the person of complainant but injury No.3 is simply complaint of pain without any external mark of injury, which means that injury No.3 cannot be treated as injury. Then there remains only two contusions and dimensions of even one injury have not been mentioned. Nine persons are made accused in the complaint by the complainant but there are only two contusions on the person of the complainant. If nine persons armed with dandas etc. would give injuries, then they will not give such type of injuries. The oral statement of the complainant that she received ten injuries, is not supported by medical evidence, which creates doubt in complainant's version and case of the complainant looks doubtful. In no way, it can be held that occurrence took place as stated in the complaint. In the complaint, the complainant stated that accused gave slaps, fists and danda blows on her face, abdomen, chest and back but this evidence has not been supported and corroborated by medical evidence.

Further, learned trial Court found that as per complainant,

occurrence took place at 1.15 p.m. on 05.05.2007 whereas she was medico legally examined at 5.15 p.m. and the doctor stated that these injuries were caused within two hours, which also creates doubt. Next, I find that PW-2 Mahender Kaur, mother of the complainant is interested witness. In her cross-examination, she deposed that body of the complainant was bearing red and blue marks of beating but again, this statement is not supported and corroborated by medical evidence. The Court also disbelieved the version regarding snatching of the ear-rings from the ears of the complainant as there was no mark of injury. If the ear-rings were snatched, in such circumstances of assault, there must be some injury on the ears.

Learned Magistrate, after appreciating the evidence, also held that complainant has not mentioned anywhere in her complaint with regard to the house of particular person, where she was allegedly abducted and confined. In pre-charge evidence, she stated that accused carried her to the house of Punjab Singh but she did not state the exact place or nature of area of said house. No site plan was proved to show place of occurrence.

Further, from the record, I find that, though, nine persons have been made accused in this case but no specific role has been attributed to any person, who gave injuries. Rather, whatever version has been given by the complainant, that cannot be believed. Two contusions cannot be caused by nine persons.

The perusal of the findings given by learned Court below 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 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. The findings have been given by correctly appreciating the evidence in right perspective and accused-respondents have been rightly acquitted.

In view of the above discussion, I find that the impugned judgment dated 20.05.2013 passed by learned CJM, Fatehabad, 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 13, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No