

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-A-1353-MA of 2016

Decided On : 14.02.2018

Gagandeep Singh

....

Applicant

Vs.

Harwinder Singh and others

....

Respondents

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

HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. Sandeep Kumar Passi, Advocate
for the applicant.

* * *

DEEPAK SIBAL, J. :

Through the instant application filed under Section 378 (4) of the Code of Criminal Procedure, 1973 (for short – Cr.P.C.), the applicant seeks grant of special leave to appeal against the judgment dated 20.05.2016 passed by the Judicial Magistrate Ist Class, Moga (for short – the trial court), through which the respondents have been acquitted of the charge framed against them under Section 326 of the Indian Penal Code, 1860 (for short – IPC).

The respondents were charged and faced trial under Sections 326/324/323/506 read with Section 34 IPC. However, they were found guilty of and sentenced under Sections 323/324/506 read with Section 34 IPC. Thus, they were acquitted qua the offence under Section 326 IPC. Such acquittal with regard to the offence under Section 326 IPC is the subject matter of challenge in the present proceedings.

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I attest to the accuracy and
integrity of this document

Learned counsel for the applicant submitted that the trial court erred in acquitting the accused-respondents of the charges levelled against them under Section 326 IPC as there was overwhelming evidence on record to prove their guilt for the commission of that offence.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant a favourable consideration.

For convicting the respondents under Section 326 IPC, grievous hurt at their instance was required to be proved. It is true that Dr. Munish Sagar, who appeared before the trial court as CW-1, on the basis of X-ray report No. AK/31/10, declared injury no. 1 on the person of the complainant as grievous but admittedly the X-ray report, which was the basis for his opinion and the best evidence to prove the applicability of Section 326 IPC, was neither produced nor proved by the prosecution. In the absence of the X-ray report, it is extremely difficult to conclude that the complainant had suffered a grievous injury.

Even otherwise, as per the Inquiry Report (Ex.DW-5/B), which was conducted by the Deputy Superintendent of Police, Dr. Munish Sagar opined that so far as injuries suffered by the complainant are concerned, possibility of them having being inflicted through a friendly hand cannot be ruled out as the injuries were located on the non-vital parts of the body. Dr. Munish Sagar, while appearing as CW-1, admitted to the expression of the above opinion by him.

In view of the above, the present application is devoid of any merit and, therefore, dismissed.

Special leave to appeal is declined.

(T. P. S. MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

February 14, 2018
monika

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>