

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

**CRM-A-1203-MA-2017
Date of decision:-16.2.2018**

Manjeet Singh

...Applicant

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Ms.Navdeep Kaur, Advocate for
Ms.Supriya Garg, Advocate
for the petitioner.

H.S. MADAAN, J.

Applicant – Manjeet Singh has filed this application under Section 378(4) Cr.P.C. seeking special leave to appeal.

Briefly stated, facts of the case are that complainant – Manjeet Singh had brought a criminal complaint under Sections 323, 324, 325, 504, 506 and 34 IPC against accused Rajpal, Jaswant and Bodan on the allegations that on 18.10.2012 at about 6:30/7:00 p.m. while the complainant was going from his village to his well and had reached near Johri, then accused persons, who are under influence of liquor called out to the complainant and inquired as to where he was going; that the complainant replied that he was going to his well at which accused started abusing him; that when the complainant asked them not to do so, then accused Rajpal hit the complainant on his right shoulder with a *bankri*, whereas Jaswant caused injury on the ring finger of right hand of complainant with an iron *nalky*; that accused Bodan hit

the complainant with a stick, in addition to giving leg blows as well as fist blows; that when the complainant raised noise, Mukesh and Bir Singh reached at the spot; that thereafter accused left the spot after giving abuses and threats to kill the complainant in future; that when the accused were leaving the spot, accused Rajpal fell in 7-8 feet deep pit and his co-accused took him away from the spot; that Mukesh and Bir Singh brought back the complainant to his house and he was taken to doctor at Silarpur for treatment; that the complainant experienced pain on the night of 18.10.2012 and was taken to Government Hospital, Narnaul, the next day where he was medico legally examined on 19.10.2008; that x-ray examination of his hand was also done; that he was discharged on 20.10.2012; that on 21.10.2012, accused Nos.2 and 3 came to the house of the complainant along with Raj Kumar to settle the matter where they admitted their mistake and Raj Kumar revealed the names of accused Nos.2 and 3 to the complainant; that though the complainant had submitted a complaint regarding the incident at Police Station Ateli but no action was initiated, rather FIR bearing No.168/2012 was registered against the complainant with the said police station. Thereafter, the complainant had filed the complaint in the Court of Judicial Magistrate Ist Class, Narnaul.

After recording preliminary evidence, accused were summoned vide order dated 4.3.2014 for the offences under Sections 323, 324, 506, 34 IPC. Accused surrendered in the Court on 2.6.2014 and were admitted to bail. Charge for such offences was framed against them, to which, they pleaded not guilty and claimed trial.

PW1 EHC Dhanraj proved copy of DDR No.30 dated

20.10.2012 as Ex.PW1/A.

PW2 Manjeet – complainant repeated on oath his case as given in the complaint.

PW3 Mukesh provided the eye-witness account of the incident supporting the case of the complainant.

PW4 Raj Kumar deposed that a fight had taken place between accused and Manjeet on 18.10.2012 and on 21.10.2012, accused Bodan and Jaswant came to him admitting their mistake. He took them to the well of Manjeet where they admitted their mistake. Further, he stated that he had not witnessed the fight.

PW5 Dr.Pradeep Sharma, who had medico legally examined the complainant – injured on 19.10.2012 while posted at General Hospital, Narnaul deposed in that regard stating that he had found following injuries on the person of complainant - Manjeet:

1. An incised wound of 10x5x.25 cm in dimension present on Right Arm Lateral Aspect with clear cut regular margin. Wound is spindle in shape with head and tail end present. Active bleeding not present. Tenderness present.
2. A small abrasion present proximal phalanx on posterior aspect of Rt.Hand ring finger. Active bleeding not present. Swelling and tenderness present.

He proved the MLR as Ex.PW5/B and x-ray report as Mark PA. On being cross-examined, he stated that the possibility of the injuries as mentioned in the MLR being self inflicted cannot be ruled

out.

PWs Manjeet, Mukesh and Raj Kumar were subjected to further cross-examination after framing of charge.

Statement of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to them but they denied the allegations and pleaded false implication.

In defence evidence, accused tendered in evidence following documents:

- Ex.D1 - Certified copy of challan filed in the case titled “State Vs Manjeet and others”.
- Ex.D2 - Certified copy of FIR of the case titled as “State Vs. Manjeet and others”, FIR No.168/2012, PS Ateli.
- Ex.D3 - Certified copy of MLR in case titled as “State Vs.Manjeet and others”.
- Ex.D4 - Certified copy of charge sheet in the case titled as “State Vs.Manjeet and others”.

After hearing arguments, the trial Magistrate had dismissed the complaint. The reasoning given for arriving at this conclusion is there in para No.16, which is quite relevant and is reproduced as under:

It has been contended on behalf of the complainant that on 18.10.2012, at about 6:30 to 7:00 p.m., accused beat him, verbally abused him and he was saved by Mukesh son of Ram Narayan and Bir Singh son of Laxmi Narayan. In

support of the submissions so made, the complainant has relied upon the testimonies of five witnesses. PW2 Manjeet has reiterated the submissions as made in the complaint in entirety. PW3 Mukesh is submitted to be an eye witness of the incident who had saved the complainant from the accused. During cross-examination, the witness has stated that the fight was already over by the time he reached the spot. PW4 Raj Kumar has admitted that no fight took place in his presence. Bir Singh who was claimed to be another eye witness of the incident has not been examined in the Court. No tenable justification has been given on behalf of the complainant as to why the witness was not examined in the Court especially when PW4 Raj Kumar had admitted that no fight took place in his presence. In view of testimony of PW4, this Court is satisfied that testimony of Bir Singh would have been helpful to shed light on actual incident that took place. It is an admitted fact that a case titled as "State Vs. Manjeet and others", FIR No.168 dated 23.10.2012, PS Ateli has been instituted against him for the incident that is alleged to have taken place on 18.10.2012. It appears that the present case is nothing but a counter blast to the State case titled as "State Vs. Manjeet and others".

The impugned order left the complainant aggrieved and he has knocked at the door of this Court by moving an application under

Section 378 (4) Cr.P.C. for grant of special leave to appeal against the judgment of acquittal.

I have heard learned counsel for the applicant besides going through the record.

The trial Court has discussed in detail various circumstances giving rise to causing doubt in the mind about the truthfulness of story put forward by the complainant. I do not find any illegality and irregularity in the judgment passed by the learned trial Court. Rather it is based upon proper appraisal and appreciation of evidence and correct interpretation of law.

Thus, no ground is made out to grant special leave to appeal in this case. The application is, therefore dismissed accordingly.

16.2.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No