

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

CRM-A-1350-MA of 2017

DATE OF DECISION :- February 20, 2018

Smt. Sudesh

...Petitioner

Versus

Dharam Pal and others

...Respondents

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

Present:- Mr. Rakesh Nagpal, Advocate for the petitioner.

Complainant Smt. Sudesh had filed an application under Sections 323, 379, 380, 384, 506/34 IPC against accused Dharam Pal and Ramesh on the allegations that Sh. Jai Pal-husband of the complainant, who is an old aged person is owner in possession of 7 killas of land situated within revenue estate of Village Batta, Tehsil and District Kaithal. At relevant time wheat crop was sown in that land; that Ramesh son of complainant in collusion with Rohtash and Dharampal (both sons of Sh. Basanta) threatened to take forcible possession of the land. However, complainant had filed a suit for permanent injunction against them and an injunction order was issued in her favour against such persons by ACJ (SD), Kaithal, that on 6.12.2011 at about 12.00 P.M., when the complainant was in her fields then on instigation of accused no. 2 Ramesh, accused no. 1 Dharam Pal came to the fields and caught hold of complainant from her hair throwing her on the ground giving slaps, fist blows and leg blows to her besides beating her with a brick on the back. Dharam Pal threatened the

complainant that if she came to the fields again she would be killed. Accused Dharam Pal had snatched mobile phone of the complainant so that she could not inform any one. Complainant had approached Police Station Kalayat but, of no action. Thereafter she submitted a complaint to Superintendent of Police Kaithal. On 7.12.2011, when the complainant was in her fields, accused Dharam Pal again came there and caught hold of complainant from her "Chhoti" (braid) and gave beatings to her causing injuries on her person with a brick. Husband of the complainant arrived at the spot, intervened and saved the complainant. Then Dharam Pal had snatched Gold ear rings weighing 10 grams of complainant and extended threats to kill the complainant.

The complainant was then medico legally examined. The matter was reported to police but no action was taken. The police simply challaned the accused persons under Sections 107/151 Cr.P.C.

After recording of preliminary evidence, both the accused were summoned. They put in appearance. The complainant led pre charge evidence. Thereafter finding a prima facie case, accused were charge sheeted under Section 323, 506 read with Section 34 IPC vide order dated 29.11.2016.

During after charge evidence, complainant Sudesh and Jai Pal were cross examined. Statements of accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances against them were put to such accused but they denied the same pleaded innocence and false implication. The accused led evidence in defence also.

After hearing arguments, learned trial Court concluded acquitted both the accused of the charge framed against them which left the

complainant aggrieved and she has approached this Court by way of filing an application under Section 378(4) Cr.P.C. seeking special leave to appeal. Since she has not approached within time, she has moved an application under Section 5 of the Limitation Act for condonation of delay of 37 days in filing the appeal for the reason that she had erroneously filed appeal in the Court of Sessions at Kaithal which was withdrawn on 21.4.2017. Thereafter, the applicant contacted her counsel and filed appeal on 20.5.2017. Resultantly, delay of 37 days took place.

I do not find reasoning therein to be convincing as such the application/petition being time barred is liable to be dismissed for that score alone. However, on merits also, the applicant does not have any case. The judgment passed by the trial Court is well reasoned one. I do not find any illegality or infirmity with such judgment. There is no ground to grant leave to appeal to the complainant. Therefore, the application/petition stands dismissed accordingly.

(H.S. MADAAN)
JUDGE

February 20, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No