

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

CRM-A No.2203-MA of 2018
Date of decision: 4th December, 2018

Mohinder Kaur

... Applicant

Versus

Hazura Singh & others

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. J.S. Jaidka, Advocate for the applicant.

FATEH DEEP SINGH, J.

This is an application under Section 378(4) of the Cr.P.C. seeking leave to file appeal by applicant Mohinder Kaur against orders dated 09.05.2018 of the Court of learned Judicial Magistrate 1st Class, Kharar.

Heard Mr. J.S. Jaidka, Advocate for the applicant and perused the records.

A complaint was filed by the present applicant complainant Mohinder Kaur against nine accused alleging that a civil litigation is pending between the family of the complainant and the accused. It is alleged that on 02.09.2008 around 9:00 a.m. accused No.1 to 7 started digging earth from the site of the complainant family to which the complainant objected and on which it is alleged that these accused abused and threatened her with dire consequences. It is further the allegation that the same day, around 6:30 p.m. when the complainant was going to

deliver milk at the local dairy, accused No.1 to 7 who had earlier conspired, assaulted her and dragged her into their house and thereafter gave her beatings by dandas and also snatched her gold ornaments. It is alleged that one of the accused tried to put a poisonous substance into the mouth of the complainant and on hearing commotion the complainant was rescued. The matter was reported after her medical examination at the local civil hospital and when the police failed to take action, a complaint was filed. The complainant in her pre-charge evidence, examined herself as CW-1, Joginder Singh as CW-4, her daughter Jaswinder Kaur as CW-5 and Dr.Harpreet Oberoi as CW-6 and after tendering documents Ex.C14 to Ex.C16 closed the evidence.

On framing of charges against the accused and in the pre-charge evidence, witnesses were examined and documents Ex.C17 to Ex.C19 were proved. The accused denied the allegations in their stand under Section 313 Cr.P.C. but did not lead any evidence in their defence.

It was through the impugned findings, the trial Court held that the prosecution failed to prove charges against the accused beyond shadow of reasonable doubt and thus, acquitted the accused of the offences. That is how the present invocation has come about.

Heard Mr. J.S. Jaidka, Advocate for the applicant and perused the records.

It is the own stand of the complainant that a civil litigation is pending between her and the family of the accused side and further that

the alleged occurrence has taken place on 02.09.2018 whereas the complaint has come about on 03.12.2018, after almost three months, but no sufficient explanation is forthcoming for this inordinate delay, puts the Court on guard to scrutinize the evidence with more care and caution, especially when there is a history of previous litigation between the parties. It is also not disputed and is subject matter of evidence that proceedings under Sections 107/151 Cr.P.C. were also carried on between the parties before the SDM, certainly are matters of much relevance. The observation that is sought to come about in the impugned findings shows that the testimony of the complainant is the solitary eye-witness account and the testimonies of other witnesses of the complainant are based on mere hearsay. The allegations that have been levelled against the accused of having brutally beaten her up with dandas, poisonous substance having been pored into her mouth and the complainant having been tied by the accused by means of a rope, are not at all substantiated by any cogent and substantial evidence. The medico legal evidence that has come about through the testimony of Dr.Harpreet Oberoi as CW-6 shows only seven injuries which are bruises on left thigh, right thigh, back of chest, lateral aspect of middle 1/3rd of right thigh and over left wrist middle aspect. All these injuries as per the medical opinion cannot be caused as a result of tying with a rope nor any element of poison could be detected. The Court below had closely examined the evidence and has drawn the conclusion that the version of

the complainant has been changing and thus, her veracity has been put to doubt and has tried to ignore specific question posed to her in her cross-examination while being confronted with documents Ex.D-1 to Ex.D-4.

Learned counsel for the applicant could not pinpoint any worthwhile credible evidence which could be of any help to the case of the complainant. The impugned findings certainly are correct appreciation of the evidence and the records, and learned counsel for the applicant could not point out any illegality in the same. This Court is not inclined to show indulgence. The application being without any merit stands dismissed and the leave to appeal is declined.

(FATEH DEEP SINGH)
JUDGE

December 4, 2018

rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No