

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

226

CRM-A-1393-MA-2017
Date of Decision: 06.09.2018

SATNAM SINGH

....Applicant

Vs.

KULBIR SINGH AND ORS

...Respondents

**CORAM:- HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Mr. Vipin Mahajan, Advocate for the applicant.

ANUPINDER SINGH GREWAL, J.

The complainant has preferred this application under Section 378(4) of the Criminal Procedure Code for grant of leave to appeal against the judgment dated 27.02.2017 passed by learned Judicial Magistrate Ist Class, Batala whereby respondents No.1 to 5 herein, namely Kulbir Singh, Kuldeep Singh, Gurpreet Singh, Sandeep Singh and Harpreet Singh, were acquitted of the charges under Sections 326, 325, 324, 323, 148, 149 IPC.

It was the case of the prosecution that on 13.03.2012, the applicant complainant Satnam Singh and his father namely Surjeet Singh were working in the fields at about 12:30 p.m., when the accused/respondents along with co-accused namely Surjan Singh, Hardeep Singh, Mohan Singh, Jagbir Singh and Gural Singh had come to the field for fixing electric wires in the transformer. The complainant and his father asked the accused not to damage the wheat crop while laying down the wires, which led to heated arguments between them.

Accused Surjan Singh armed with *dang*, Mohan Singh armed with *dang*, Jagbir Singh armed with *kirpan* and Hardeep Singh armed with *dang* also reached the place of occurrence. Accused Mohan Singh raised lalkara that they be caught hold of and taught a lesson for obstructing the fixation of electric wires. Accused Jagbir Singh gave *kirpan* blow on the right leg of the complainant, due to which he fell down and accused Hardeep Singh gave a *dang* blow, which hit him on his left wrist joint. All the accused inflicted injuries to the complainant with their respective weapons and he fell down on the ground. The other accused also gave beatings to the complainant and his father and when the father of the complainant namely Surjeet Singh came forward to save him, then accused Gurpal Singh snatched *kirpan* from Jagbir Singh and gave a blow of *kirpan* on the right arm of Surjeet Singh, due to which he fell down on the ground and then all the accused gave fist blows to the father of the complainant. Thereafter, the complainant and his father raised an alarm after which the wife of the complainant, Manjit Kaur and Palwinder Singh son of Kartar Singh came at the spot and saw the whole occurrence with their eyes. All the accused ran away with their respective weapons. The wife of the complainant Manjit Kaur and Palwinder Singh arranged a vehicle and they were taken to Civil Hospital, Fatehgarh Churian. The concerned doctor sent the MLR to the Police Station but no police official came to hospital to record their statements. On 22.03.2012, the complainant and his father went to the police station and their statements were recorded but the police did not take any action. Thereafter, complaint was filed against the accused under Sections 326, 325, 324, 323, 148 & 149 IPC. Police had registered

a case under Section 326 IPC against the complainant and his father on the complaint filed by the accused.

In his preliminary evidence, the complainant examined Dr.Surinderpal Singh as CW-1, Surjit Singh as CW-3 and complainant Satnam Singh himself stepped into witness box as CW-2. The accused Gurpal Singh, Kulbir Singh, Gurpreet Singh, Sandeep Singh, Harpreet Singh were summoned to face trial under Section 324 IPC, while accused Surjan Singh, Mohan Singh were summoned to face trial under Section 323 IPC and accused Jagbir Singh and Hardeep Singh were summoned to face trial under Section 326 IPC. In pre-charge evidence, complainant Satnam Singh examined himself as CW-1 and had examined Surjit Singh as CW-2, Dr.Surinderpal Singh as CW-3, PHC Kulwinder Singh as CW-4 and Dr.Krishan Lal as CW-5. In the post-charge evidence, the complainant Satnam Singh examined himself as CW-1, while Surjit Singh was examined as CW-2.

The trial Court by the judgment dated 27.02.2017, while convicting accused Surjan Singh, Jagbir Singh, Gurpal Singh and Hardeep Singh under Sections 326, 323 IPC read with Section 149 IPC, acquitted the accused/respondents.

Learned counsel for the applicant complainant has contended that as the presence of the accused/respondents was also established at the place of occurrence and they had been specifically mentioned in the complaint as having caused injuries to the complainant and his father, their acquittal was unwarranted.

Heard.

In the occurrence, complainant had received several injuries but except for injury No.6, all other injuries were found to be simple in

nature. Injury No.6, which was stated to have been caused by sharp weapon, was on the lower leg of the complainant.

Injuries on the person of the complainant Satnam Singh are reproduced hereunder:-

- i) “Injury No.1, 1/2 x 1/2 Cms. Bruise on the right side of forehead about 3 Cms from the right elbow.
 - ii) Injury No.2, swelling of the left eye lid about 3 x 3 Cms.
 - iii) Injury No.3, 1 x 1 CM. Bruise on the back about 10 CM from the mid line.
 - iv) Injury No.4, C/O pain left forearm and wrist advised X-ray.
 - v) Injury No.5, C/O pain right inner side of thigh
 - vi) Injury No.6, 3 CM x 1 CM incised wound in the middle of right skin on the lower leg about 1/2 CM from mid line Advised X-ray.
 - vii) C/O pain in the neck and lower face advised X-ray.
- Probably duration of injuries is less than 6 hours.”

Injuries on the person of the father of the complainant, Surjeet Singh are reproduced hereunder:-

- i) Injury No.1 C/O pain right back side of shoulder Advised X-ray.
- ii) C/O pain left gluteal area Advised X-ray.
- iii) 2-1/2 CM x 1/2 CM incised wound on the back of the right forearm in the lower one third about 8 Cms from wrist. Fresh bleeding present advised X-ray.

iv) C/O pain right back side of right thigh.

Injury No.3 was declared to be grievous in nature, while the other injuries were found to be simple. Injury No.3 is on the right forearm of Surjit Singh.

For these injuries, which had been caused to the complainant and his father, five accused have been convicted. The convicted accused had been assigned a specific role including the weapons used by them in inflicting the injuries on the complainant and his father. The allegations, which had been leveled against the accused/respondents, were that they had caused fist blows to the complainant and his father. Therefore, the view taken by the trial Court that mere vague and general allegations without assigning any specific role could not be the basis for convicting the accused/respondents, appears to be plausible. Furthermore, the mere presence of the accused/respondents at the place of occurrence, by itself, cannot be the foundation for their conviction. The accused party is also stated to have suffered injuries and they are stated to have lodged an FIR. Thus the reasoning of the trial Court to this effect cannot be faulted.

It is well settled that interference, in an appeal against acquittal, would be warranted in a case of miscarriage of justice or the finding recorded by the trial Court is perverse. Merely because another view on the evidence led before the trial Court would be possible, is not a ground for interference with the judgment of acquittal. The presumption of innocence of the accused is reinforced by a judgment of acquittal.

In view of the above, *prima facie*, case is not made out for conviction of the accused/respondents. The application under Section

378(4) Cr.P.C. being devoid of any merit stands dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

06.09.2018
SwarnjitS

Whether speaking/reasoned :

YES/NO

Whether reportable :

YES/NO