

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

CRM No.A-1539-MA of 2017 (O&M)

Date of decision: May 01, 2018

Hans Raj

...Applicant

Versus

Baljit Singh and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE A.B.CHAUDHARI
HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Manjinder Singh Saini, Advocate
for the applicant.

INDERJIT SINGH, J.

CRMs No.23597 and 23598 of 2017

The applications are allowed. Annexures A-1 to A-3 are taken on record, subject to all just exceptions.

CRM No.23596 of 2017

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 140 days in filing the application seeking leave to appeal, is condoned.

CRM No.A-1539-MA of 2017

Applicant-Hans Raj has filed this application under Section 378

(4) Cr.P.C. seeking permission for leave to appeal against Baljit Singh and

other respondents, challenging the impugned judgment dated 21.02.2017 passed by learned Addl. Sessions Judge, Hoshiarpur, vide which the accused-respondent was acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that judgment of learned trial Court is totally perverse and against the law. It is, therefore, prayed that leave to appeal be granted.

From the record, we find that a complaint was filed against Baljit Singh and Sanjiv Kumar under Sections 436, 427, 447, 506, 34 IPC and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act [for brevity SC/ST Act]. The brief facts of the complaint as noted down by learned trial Court, in the impugned judgment are as under:-

“2. In brief, the facts of the present complaint case are that the complainant is resident of village Satial and is doing the agriculture work in the land of accused Baljit Singh, situated at village Bajwara, Bank Colony, Una Road, Hoshiarpur in partnership for the last so many years. Earlier to the complainant, his father used to do the work of agriculture in the above said land and after his death, complainant is in possession of the same. The complainant has also constructed the rooms (sheds) and also used to live in the said sheds. It is further submitted that complainant is also paying the electricity bills to the tube well installed there. The complainant belongs to SC caste whereas the accused Baljit Singh belongs to Saini caste. Accused Baljit Singh filed a civil suit against the complainant which is pending in the court of Mrs. Vipindeep Kaur, the then learned Civil Judge (Jr.Div.), Hoshairpur in which the status quo order has been passed on 30.8.2008. The accused illegally and forcibly wants to dispossess the complainant from the above said land without any reason and also used to give threats to him to vacate the same but the complainant refused to do so. The complainant has sown wheat crops and vegetables crops in the said land. On 26.2.2009 at about 1 P.M, the complainant was present in the above said land and accused Baljit Singh and Sanjiv Kumar along with some unknown persons came there on a tractor. Accused Baljit Singh raised Lalkara to set on fire the sheds constructed by the complainant and also asked the other

co-accused namely Sanjiv Kumar to destroy/damage the wheat crops and vegetables with the tractor. Accused Baljit Singh set on fire the sheds by which the sheds and all the articles lying therein burned with fire. All other accused along with Sanjiv Kumar damaged the wheat crops and vegetables crops with tractor tiller. Accused Baljit Singh also hurled abuses to the complainant by saying that IS KUTE CHAMAR NU JAMIN BICHO KED KE HE DAM LENA HAI. It is further submitted that the entire occurrence was witnessed by Vivek Kumar Sethi and Amar Chand, who were also present there at that time. The complainant reported the matter to the SHO, PS Sadar on 26.2.2009 as well as SSP, Hoshiarpur on 27.2.2009 with regard to this occurrence but all in vain. Hence, the present complaint.”

Finding prima facie case, the accused were charge-sheeted under Sections 436, 427, 447, 506 IPC and Section 3 of SC/ST Act, to which they pleaded not guilty and claimed trial.

In support of its case, complainant examined CW-1 Vivek Kumar, himself as CW-2 and CW-3 Head Constable Dalbir Singh.

In the statement under Section 313 Cr.P.C., accused denied all the incriminating evidence against them and pleaded their innocence. No witness was examined in defence.

Learned trial Court, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 21.02.2017.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

We have heard learned counsel for the applicant and have gone through the record.

The perusal of the record shows that the findings given by learned trial Court are as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. Nothing has been

pointed out as to which material evidence has been misread and which

material evidence has not been considered by the Court below. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned trial Court.

As per the findings of learned trial court, Baljit Singh accused is shown to be in possession of the land in question. Learned trial Court, from the evidence on record, found that complainant failed to prove his possession beyond reasonable doubt. It is in the evidence that as per revenue record accused Baljit Singh is shown to be in possession of the disputed land. It is admitted case of the parties that Baljit Singh is the owner of the suit land. The complainant in cross-examination further admitted that a case under Sections 446, 406 and 34 IPC was registered against him and his brother and both of them were convicted under Sections 447 and 506 IPC and the appeal against said judgment was also dismissed. He also admitted that Baljit Singh had filed an application to the SSP, Hoshiarpur on 02.04.2009 and a case under Section 307, 148, 149 IPC and Section 25 of the Arms Act was registered at P.S. Model Town, Hoshiarpur, although, they were later on acquitted. The complainant further admitted that accused had given application against him regarding forged agreement dated 08.07.1976 and he also admitted that challan was presented against him (complainant) in that case in his absence and he got bail in the said case.

From the perusal of the record, we find that after scrutinizing the evidence and appreciating the evidence in right perspective, learned trial Court has correctly given the findings and acquitted accused-respondents.

In view of the above discussed evidence, we find that the

Judge, Hoshiarpur, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

(A.B.CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

May 01, 2018
Vgulati

Whether speaking/reasoned	Yes
Whether reportable	No