

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-A-174-MA of 2017

Date of Decision : February 14, 2018

Karamjit Singh Applicant

vs.

Om Parkash Rawat and others Respondents

CORAM : HON'BLE MR. JUSTICE T. P. S. MANN.

HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. H. P. S. Ghuman, Advocate
for the applicant.

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DEEPAK SIBAL, J. :

Through the instant application filed under Section 378 (4) of the Code of Criminal Procedure, 1973 (for short – Cr.P.C.), the applicant seeks grant of special leave to appeal against the judgment dated 21.09.2016 passed by the Additional Sessions Judge, Patiala (for short – the trial court), through which the respondents have been acquitted of the charges framed against them under Sections 452, 382, 379, 323, 506, 342, 382, 392, 364, 149, 34 of the Indian Penal Code, 1860 (for short – IPC).

Briefly stated, the case of the applicant-complainant, as per the complaint filed before the Court of Illaqa Magistrate, is that the complainant is in the business of grinding of mustard oil, grains and spices as well as rice shelling. On 04.08.2006 at 07:00 PM, respondents Dhanna Singh, Kuldeep Singh and Sarabjit Singh, after coming to the applicant's residence, abused and threatened to kill him and his family members if he

did not withdraw the case filed by him which was pending in the court of Judicial Magistrate Ist Class, Patiala. As per the allegations, the aforesaid respondents were armed and respondents Nirmal Dass and Kuldeep Singh caught hold of the applicant whereas respondent Dhanna Singh inflicted a rifle butt blow on his chest. The applicant was further pushed to the ground and while he was lying down, various blows with the rifle butt were inflicted on the applicant's back. Cash and rice were also alleged to have been stolen by the respondents.

It was further the case of the applicant that on 06.08.2006 at about 06:30 PM, respondents Dhanna Singh, Sarabjit Singh and Kuldeep Singh forcibly entered the applicant's house and threatened to implicate him in a false case if he did not withdraw the application filed by him through which he had sought release of the case property and on the applicant's refusal to succumb to these demands, he was given beatings, abused and threatened. Such incident was alleged to have been witnessed by Mohinder Singh and other persons.

It is still further the applicant's case that on 19.09.2006 at about 01:20 PM, respondents Om Parkash Rawat, Dhanna Singh, Kuldeep Singh, Sarabjit Singh – all armed with rifles and Nirmal Dass and Amar Singh armed with sticks entered the place of work of the applicant and on the raising of *lalkara* by respondent Nirmal Dass, all the other respondents gave merciless beatings to him. Respondent Dhanna Singh then forcibly snatched Rs.13240/- from the applicant's pocket whereas respondent Amar Singh took other items which included one pen, one watch and other

papers/documents. The respondents are then alleged to have confined the applicant for 27 hours and during such confinement, he was not given any food. The medical examination, which showed injuries on the person of the applicant, was also relied upon in support of the above allegations.

After recording of preliminary evidence, the court of Illaqa Magistrate summoned the respondents to face trial under Sections 323, 341, 364, 379, 380, 382, 392, 427, 452, 499, 500, 506 read with Section 120-B, 148, 149 IPC. Thereafter, the case was committed to the court of Sessions Judge, Patiala from where it was entrusted to the court of Additional Sessions Judge, Patiala. It is that court which after charging the respondents for the aforesaid offences, tried them on their pleading not guilty.

The trial court, after sifting the evidence which had come on record, being of the opinion that the prosecution had not proved its case beyond reasonable doubt, acquitted all the accused persons. Such acquittal of the accused is the subject matter of challenge in the present proceedings.

Learned counsel for the applicant, while reiterating the submissions made on behalf of the applicant before the trial court, submitted that the trial court erred in acquitting the accused-respondents of the charges levelled against them by holding that there was no independent witness as PW-3 Rajinder Kumar, who had supported the applicant's case, was not related to him. Even otherwise, deposition of other eye-witnesses could not have been ignored by the trial court only on the ground that such witnesses were related to the applicant. It was further submitted that there

was overwhelming evidence on record to prove the guilt of the accused persons and therefore, there was no reason in fact or in law with the trial court to acquit them.

The submissions made by learned counsel for the applicant have been considered but the same do not warrant a favourable consideration.

In his complaint, the applicant did not disclose that he had even earlier filed a complaint Ex.D-2 with regard to the occurrence dated 04.08.2006 and 06.08.2006. Such complaint was finally adjudicated upon through judgment dated 09.10.2012 (Ex.D-1), through which respondents Dhanna Singh, Kuldeep Singh and Sarabjit Singh were acquitted. The respondents, who had been acquitted through the afore-referred judgment 09.10.2012 (Ex.D-1), cannot be again tried for the same occurrence. Rather, the applicant, by having not disclosed the above proceedings, attempted to mislead the Court and abused its process.

So far as the alleged occurrence of 19.09.2006 is concerned, the applicant has alleged that on that day, the respondents came to his place of business where he was given beatings and abused. He further alleges theft at their hands. On the other hand, the respondents proved on record various DDR entries dated 19.09.2006 and 20.09.2006 maintained at the Police Station RPF (Railway Police Force), Patiala showing therein their departure to the place of the applicant and their arrival back to the Police Station along with the applicant in their custody. The respondents have also produced and proved the record pertaining to the production of the

applicant before the Illaqa Magistrate, which clearly shows that the applicant was legally arrested by the respondents in the course of their duty done by them in pursuance to FIR No.7 dated 19.09.2006 registered under Section 3 of the Railway Properties (UP) Act. Therefore, the act of the respondents can be termed only to be an act in good faith in discharge of their official duties.

On the other hand, the allegations made by the applicant are found not to have been proved by him. There are material contradictions between the depositions of PW-1 Rajwant Kaur (applicant's wife) and PW-2 Karamjit Singh (applicant himself) with regard to the alleged weapons with the respondents. The allegation of respondent Dhanna Singh having taken Rs.13240/- was also found missing from the testimony of PW-1 Rajwant Kaur.

So far as PW-3 Rajinder Kumar is concerned, his statement is not found worthy of any credence as he admitted in his cross-examination that respondent Dhanna Singh had earlier registered a case against him, in which he was convicted. Thus, there was a reason for him to falsely implicate the respondents.

After going through the testimony of PW-4 Dr. Anil Garg, the trial court came to a categorical conclusion that injury no.1, alleged to have been inflicted by the respondents on the person of the applicant, was a self-inflicted injury. Nothing has been shown to persuade us to take a different view. Even otherwise, having gone through the findings recorded by the trial court in this regard, we approve the same.

In view of the above, the present application is devoid of any merit and, therefore, dismissed.

Special leave to appeal is declined.

(T. P. S. MANN)
JUDGE

(DEEPAK SIBAL)
JUDGE

February 14, 2018
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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>