

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-140-MA of 2015 (O&M)

Date of decision : 28.2.2018

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Manoj Kumar Monga

.....Appellant

vs.

Iqbal Singh and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Ranjit Singh, Advocate for the applicant

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H. S. Madaan, J.

Complainant Manoj Kumar Monga had brought a complaint under Sections 452, 324, 323, 342, 382, 506, 149 IPC, against accused, Iqbal Singh SHO, Chamkaur Singh, Constable, Baldev Singh, Constable Gurdev Singh, Head Constable and Angrej Singh, Constable all from Police Station Guruhar Sahai, District Ferozepur, on the allegations that he has been taking active part in social activities and was earlier a member of Shiv Sena and had remained District President of the said party for quite a long time. He is active in politics also. The complainant has been highlighting the mis-functioning of prominent rice millers of the Guruhar Sahai, therefore, police was annoyed with him and wanted to teach him a lesson. On 14.12.2007, when the complainant alongwith his family members was

present in his house, at about 4 A.M. accused police officials entered into his house and started giving beatings to him. They gave abuses to him also. When wife of the complainant, with her son Ankit in her arms, tried to intervene, accused Iqbal Singh pushed both of them, as a result of which they received injuries. Complainant was wearing a gold chain of about 18 grams, which alongwith Rs.800/- in cash, were snatched by accused Iqbal Singh. Complainant was dragged out of the house and was forcibly put in a jeep and was taken to the police station. The incident was witnessed by brothers of the complainant, namely, Dheeraj Kumar and Rahul Kumar son of Satpal, both residents of Guruhar Sahai. In police station, the complainant was given further beatings. That in order to cover their wrong doings, the police prepared false report under Sections 107, 151 Cr.P.C. against him. On 15.12.2007, he was released on bail. Thereafter he alongwith his son went to Civil Hospital, Guruhar Sahai on 16.12.2007, where both of them were examined. The complainant filed a complaint in the Court of Sub Divisional Judicial Magistrate, Guruhar Sahai.

After recording of the preliminary evidence, accused were ordered to be summoned to face trial under Sections 452, 324, 323, 342, 382, 506, 149 IPC. The accused put in appearance. The complainant lead evidence. Thereafter, the accused were charge sheeted for offence under Sections 148, 452, 324, 323, 506, 382, 149 IPC, to which they pleaded not guilty and claimed trial.

The complainant lead post charge evidence. Thereafter, statements of the accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against them

were put to them. They pleaded innocence contending that complainant Manoj Kumar is President of Shiv Sena of District Ferozepur; that there was a State level call by Shiv Sena for a Bandh; that the complainant alongwith his other party members was unlawfully trying to close the market; so in view of his illegal activities and to maintain law and order, proceedings under Sections 107, 151 Cr.P.C. were initiated against him; that as a counter blast, he has filed the complaint.

After hearing arguments, the trial Magistrate dismissed the complaint and acquitted the accused of the charge framed against them.

The reasoning given is contained in paragraphs 16 to 20 of the judgment, which are reproduced as under:-

“16. Complainant Manoj Kumar has very categorically admitted that he was the President of District Unit of Shiv Sena at the relevant time. Documents Mark CW1/B and CW1/C are the letter pads in which it has been clearly mentioned by the complainant that he is the President of Shiv Sena of Guruhar Sahai. Thus, it is proved on record that the complainant was the President of Shiv Sena of Guruhar Sahai. The complainant has also admitted that there was a call of 'Punjab-Bandh' by the Shiv Sena at the relevant time.

17. I find force in the argument of the learned defence counsel that to prevent any untoward

incident, it was decided by the police to arrest the leaders of Shiv Sena who were supporting the call of Punjab Bandh. Admittedly, the complainant was one of them. Thus it is clear that with the sole motive of up-keeping the law and order, the complainant was arrested under 107, 151 of the Cr.P.C. and was produced before the SDM as per law. The complainant has admitted that he has not made any complaint to the SDM regarding any injury.

18. As per the version of the complainant, his son Ankit had also received injuries but he was not taken to the Hospital either on 14.12.2007 or 15.12.2007 but he was allegedly taken to Hospital only on 16.12.2007 after the release of the complainant. As per complainant himself, he was released on bail on 15.12.2007 but he went to Civil Hospital alongwith his son only on 16.12.2007 and was examined by the doctor on 16.12.2007 at 8.05 P.M. The doctor has disclosed that the probable duration of the injuries on the person of complainant was within 24 hours. Thus, it is clear that the complainant received injuries on 15.12.2007 at about 8.05 P.M. And by that time he was already out of custody, being on bail. If the son of the complainant had received injuries then why medical aid was not provided to him immediately and why the family members waited for

the release of the complainant. These all questions have remained unanswered.

19. In this way, the entire story, that has been put up by the complainant appears to have been made up only to teach a lesson to the police officers who were doing their duty at 4 A.M. In the morning. Not only this, the complainant has went on to the extent on leveling allegations that accused Iqbal Singh snatched a chain of 18 gram of gold from his neck and also snatched Rs.800/- in cash. It does not appeal to the reason that at 4 A.M. complainant was keeping a cash of RS.800/- in his pocket. No proof of any gold chain has been placed on record.

20. The names of rice millers, as alleged in the complaint on whose behest the police party arrested him, have not been disclosed. Not even the misdeeds of accused person have been unveiled in the complaint or anywhere else.”

It has further been observed that wife of the complainant had allegedly received injuries, but she was not medically examined. One person namely Rahul son of Satpal had allegedly seen the incident, but again he was not produced in the Court as witness. Under these circumstances, the entire case set up by the complainant turned out to be highly doubtful, not inspiring confidence. The trial Magistrate observed that evidence brought on file by the complainant was not trustworthy and reliable and depositions of the witnesses fall much

short of bringing home the guilt of the accused beyond reasonable doubt.

Feeling aggrieved by the said judgment, the complainant has approached this Court. He has moved an application under Section 378 (4) Cr.P.C. seeking special leave to appeal.

I have heard learned counsel for the applicant. The judgment passed by the trial Court is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein which might have called for interference by this Court. Thus no ground for grant of special leave to appeal to the complainant is made out. The application in that regard stands dismissed.

28.2.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No