

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

CRM-A-208-MA of 2017.

Decided on:-July 24, 2018.

Amandeep Kaur.

.....Applicant.

Versus

Jatinder Singh and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Ramesh Sharma, Advocate
for the applicant.

HARI PAL VERMA, J.

Applicant Amandeep Kaur (hereinafter referred to as the 'complainant') has filed the present application under Section 378(4) of the Code of Criminal Procedure for grant of leave to appeal against the judgment dated 07.12.2016 passed by learned Judicial Magistrate 1st Class, Kapurthala, whereby respondents Jatinder Singh and Jinder Kaur @ Harjinder Kaur (hereinafter referred to as the 'accused') were acquitted of the charge levelled against them in a complaint filed by the complainant under Sections 313, 323, 324 and 120-B IPC.

Briefly stated, it is the case of the complainant that her marriage with accused No.1 Jatinder Singh was solemnized on 13.12.2006 according to Sikh rites and ceremonies. Out of their wedlock, one female child, namely, Kiranjit Kaur was born on 05.01.2009. However, shortly after the

solemnization of the marriage, accused No.1 and his family started taunting the complainant for having brought less dowry much below their expectations. The accused demanded a car and cash to the tune of Rs.2.5 lakh from the complainant. She continued to bear the tortures of the accused in the hope that the better sense may prevail some day, but in vain. When the complainant was pregnant for the second time, the accused started to press her hard to undergo scanning for determination of the sex of the unborn child. Resultantly, on 24.04.2010, the accused gave beatings to the complainant as she did not agree to undergo such scanning. The accused also poured tea on her back with an intention to cause hurt. Accused No.1 had also inflicted fist and kick blows on her abdomen and she was finally rescued by her brother Kulwant Singh, who took her to PHC Dhilwan, where she was medico-legally examined.

Due to the aforesaid torture, the complainant had to undergo an abortion on 03.06.2010. Despite a compromise having been arrived at between the parties, the custody of minor daughter was not given to the complainant and as such, the complainant was forced to move a petition for the relief of custody. She had also moved a complaint regarding the said incident at Police Station Subhanpur, where a DDR No.31 dated 24.04.2010 was recorded against the accused, but the police did not take any further action in the matter. Hence, the present complaint.

After recording preliminary evidence of the complainant, vide order dated 13.08.2015, learned trial Court summoned the accused as well as other co-accused, namely, Jarnail Singh to face trial under Section 323 IPC.

However, vide order dated 19.04.2016 passed by learned trial Court, accused Jarnail Singh was declared as a proclaimed person.

On finding a prima facie case against the accused, they were charge sheeted under Section 323 read with Section 34 IPC to which they did not plead guilty and claimed trial.

In support of her case, the complainant herself stepped into the witness box as CW1 and examined HC Murta Singh as CW2, Mohinder Kaur, mother of the complainant as CW3, Sukhdev Singh as CW4 and Dr. Kuldeep Singh as CW5. Thereafter, she closed her post summoning evidence.

Statements of both the accused under Section 313 Cr.PC were recorded, wherein they were apprised with all the incriminating evidence available on record against them. The accused denied all the allegations levelled against them and pleaded that they have falsely been implicated in the case. It was pleaded by the accused that the present complaint is nothing but pressure tactics of the complainant in order to pressurize the accused to compromise the custody matter pertaining to the daughter of the complainant, which is pending in the Court of learned Additional District Judge, Kapurthala. However, the accused did not examine any witness in their defence.

After recording the evidence and hearing the arguments of both the sides, learned trial Court acquitted the accused of the charges levelled against them vide impugned judgment dated 07.12.2016.

Aggrieved against the aforesaid judgment, the complainant has filed the present application under Section 378(4) Cr.P.C. for grant of leave to appeal.

Learned counsel for the complainant has argued that the impugned judgment dated 07.12.2016 passed by the trial Court is wrong, illegal, unjust and against the law and facts. The trial Court did not consider the DDR and the MLR produced on record as well as the evidence of Dr. Kuldeep Singh who appeared as CW5 and proved on record the medico-legal report along with other documents. Even the injuries suffered by the complainant at the hands of the accused have not been considered. The trial Court wrongly and illegally held that the alleged incident might have been the product of an afterthought of the applicant.

He has further argued that the trial Court did not apply its judicious mind while acquitting the accused and, therefore, the impugned judgment dated 07.12.2016 passed by the trial Court is liable to be set aside and the accused be convicted and sentenced accordingly.

I have heard learned counsel for the complainant.

Vide impugned judgment dated 07.12.2016, learned trial Court while acquitting the accused of the charges levelled against them, has observed that the complainant has alleged that the entire incident happened on 24.04.2010. The relevant entry in this regard was also made in the DDR Ex.CW2/A on 24.04.2010. However, the respective entry in the MLR along with the testimony of Dr. Kuldeep Singh as CW5 revealed that the aforesaid medico-legal report pertains to 22.04.2010 and, therefore, the aforesaid discrepancy cannot be overlooked so conveniently in this case. Learned trial Court had further observed that it is inconceivable on the part of the Court that if, as per the version of the complainant, the incident in question had occurred on 24.04.2010, then as to how the complainant was medico-legally

examined on 22.04.2010 i.e. two days prior to the occurrence of the incident. Thus, the present incident might have been the product of an afterthought of the complainant.

Learned trial Court has further observed that Kulwant Singh, who allegedly rescued the complainant from the clutches of the accused has not been examined by the complainant. Further, the testimony of Sukhdev Singh as CW4 being a hearsay account of the incidents, as narrated to him by others, is of no avail to the case of the complainant. Even the complaint was filed before the Court on 19.09.2011 i.e. after about 1½ years of the alleged incident, which took place on 24.04.2010. This long delay in presenting the complaint to the Court has never been explained by the complainant.

It was further observed by learned trial Court that neither the body of the complaint nor in the testimony of the complainant specifically attribute any of the accused qua the alleged pouring of tea on her back. The medical evidence brought on record by the complainant shows that the burn injuries had been found on her body, but in the absence of any specific allegation against any of the accused qua the alleged commission of the act, the trial Court had found itself unable to fasten any criminal liability upon any of the accused for the alleged commission of the crime. Accordingly, in the absence of any convincing evidence brought on record by the complainant, learned trial Court acquitted the accused of the charges levelled against them.

This Court finds that the complainant has failed to show any misreading of evidence by the learned trial Court and has not been able to point out any legal error in the judgment under challenge which may warrant interference by this Court. When there is no evidence available on record to

connect the accused with the alleged crime, no case is made out for interference in the impugned judgment dated 07.12.2016 passed by learned Judicial Magistrate 1st Class, Kapurthala.

Accordingly, the present application, being devoid of any merit, is dismissed. Leave to appeal is declined.

July 24, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No