

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

CRM-A-675-MA-2018

Date of decision: 11th July, 2018

State of Punjab

... Applicant

Versus

Labh Kaur

... Respondent

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE FATEH DEEP Singh**

Present: Mr. H.S. Sullar, Dy. Advocate General, Punjab
for the applicant.

FATEH DEEP SINGH, J.

This is the application for leave to appeal filed by applicant against acquittal of one of the accused, Labh Kaur.

Upon hearing learned counsel for the applicant Mr.H.S. Sullar, Deputy Advocate General, Punjab and on perusal of the records, this Court finds that initially five accused namely, Amrik Singh, Kaka Singh, Jasvir Singh (all convicts) alongwith Gurnam Kaur (since dead) and Labh Kaur (present respondent) were tried in case bearing FIR No.102 dated 26.05.2006 under Sections 323, 324, 326, 148, 149 IPC pertaining to Police Station Patran by the Court of learned Sub Divisional Judicial Magistrate, Samana who through impugned judgment dated 08.05.2012 had held all the accused guilty

for commission of offences punishable under Sections 323, 324, 326, 148 and 149 IPC and sentenced them as follows:

All convicts

Under Section 148 IPC RI for three years each.

Under Section 323 IPC RI for one year each.

Convict Amrik Singh

Under Section 326 IPC RI for three years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo RI for 15 days.

Remaining Convicts

Under Section 326/149 IPC RI for three years and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo RI for 15 days.

Convict Kaka Singh

Under Section 324 IPC RI for three years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo RI for 15 days.

Remaining Convicts

Under Section 324/149 IPC RI for three years and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo RI for 15 days.

All the five convicts filed appeal, during the course of which appellant Gurnam Kaur had died. The Court of learned Additional Sessions Judge, Patiala through impugned findings dated 18.01.2017 upheld the conviction of all the accused except Labh Kaur and that is how the present application has come about.

Appreciating the submissions of the two sides, the brief allegations are that complainant Narinder Pal Singh lodged a complaint on the allegations that he was an agriculturist and his land

was situated in village Khangarh and out of which land, litigation pertaining to five kanals seven marlas land had originated between him and Gurnam Kaur which is pending before this High Court. It is alleged that on 25.05.2006 around 1:00 p.m. when he alongwith his father Makhan Singh was present at the said land, accused Amrik Singh, Kaka Singh and Jasbir Singh alias Kala armed with gandasas came on their motorcycle followed by Gurnam Kaur and Labh Kaur on another, armed with sottes. It is alleged that Gurnam Kaur raised lalkara, at which Amrik Singh is alleged to have given a gandasa blow on the complainant hitting his right arm. Jasbir Singh also gave a gandasa blow from its reverse side on the head of complainant followed by Gurnam Kaur and Labh Kaur giving sotti blows on his shoulder and knee. On raising rousa, all the accused ran away alongwith their respective weapons, leading to registration of the present case.

Prosecution at the trial, examined PW1 Makhan Singh, PW2 Narinder Pal Singh complainant, PW3 HC Lakhwinder Singh, PW4 Dr. Arvind Verma MO, PW5 Dr. Jarnail Singh and PW6 SI Balkar Singh and closed its evidence.

The accused in their stand taken in their statement under Section 313 Cr.P.C. denied the allegations taking the plea that it was the complainant side which was the aggressor, and they examined in their defence, DW1 Dr. Manwinder Singh Ahluwalia who tendered his

affidavit as Ex.DW1/A, DW2 Dr. Jarnail Singh who also tendered his affidavit as Ex.DW2/A and DW3 HC Jagtar Singh who proved the DDR Ex.R4. It is in this manner, initially they were found guilty and convicted and subsequently on appeal, Labh Kaur was acquitted of the charges levelled against her.

It is the case of the prosecution, which is well elaborated in the cross-examination of the eye-witness PW1 Makhan Singh, father of the complainant, that Labh Kaur and Gurnam Kaur did not come alongwith the other accused and rather they were dropped by a motorcyclist at a distance of 50 yards from the place or occurrence, and invariably leads to the inference that they did not accompany their co-accused and therefore, the common object and rioting certainly is a questionable proposition, besides the fact that only sotti blows are attributed to Labh Kaur and which nowhere has been proved to be grievous in nature. It is not the case that Labh Kaur was instrumental in causing injuries to Makhan Singh and is attributed the role of only causing injuries to Narinder Pal Singh, and the MLR of Narinder Pal Singh Ex.PW4/3 and pictorial diagram Ex.PW4/4 do not materially corroborate and substantiate these injuries having been caused and therefore, put a big question-mark on the credibility and veracity of the prosecution story qua this accused. Besides, the parties are at loggerheads, litigating over land and therefore, attributing injuries to women folk certainly, as is prevalent in rural

areas of the State is not uncommon and whereby the entire family has been sought to be roped-in, puts the Court on its guard to scrutinize the evidence with more care and caution. The Court below in the impugned findings, has rightly evaluated the evidence of PW1 to the effect whereby Makhan Singh has failed to identify the person who dropped both these ladies at the place of incident and has even failed to identify or name the motorcyclist or the particulars of the motorcycle, and therefore, the learned first appellate Court has rightly come to a conclusion that the presence of Labh Kaur at the site of occurrence is highly doubtful and therefore, has correctly given benefit of doubt to her.

This Court does not find any illegality in the findings recorded by the learned first appellate Court as the prosecution has rightly been held to be shrouded in doubt to that effect. There being no merit in the application for grant of leave to appeal, the same stands dismissed. Leave to appeal is accordingly declined.

(T.P.S. MANN)
JUDGE

(FATEH DEEP SINGH)
JUDGE

July 11, 2018
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No