

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH  
CRM-A-2511-MA-2017 (O&M)  
Date of decision: July 09, 2018

Yudhvir Singh

.....Applicant

Versus

Ravi Bhan and others

.....Respondents

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

**Present:** Ms. Gursharan Kaur, Advocate (Legal Aid counsel)  
for the applicant-appellant.

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**KULDIP SINGH, J.**

**CRM-37610-2017**

This is an application under Section 5 of the Limitation Act read with Section 482 Cr.P.C. for condonation of delay of 20 days in filing the appeal.

Application is allowed, as prayed for, subject to all just exceptions.

Delay of 20 days in filing the appeal, is condoned.

**CRM-A-2511-MA of 2017**

This is an application filed under Section 378(4) Cr.P.C. for grant of leave to appeal against judgment dated 08.08.2017, passed by learned Sub Divisional Judicial Magistrate, Bawal, Haryana. Along with the said application, the appeal has also been filed against the judgment of acquittal.

Heard.

Learned counsel for the applicant-appellant has been heard in the main appeal as well as on the application under Section 378 (4) Cr.P.C. It is the case made out with the criminal complainant against Ravi Bhan, Bharat Bhushan and their wife's Rekha Devi and Prem Devi alleging that on

17.09.2010 at about 9 a.m., in the morning, his wife Anita Devi and daughter Manju Devi had gone to the fields to fetch fodder. They found that Rekha Devi and Prem Devi-accused were harvesting the Bajra crops from their fields while Ravi Bhan, Bharat Bhushan and Ghamandi were guarding them with lathis. When Anita Devi made a complaint as to why the accused entered in their fields, Bharat Bhushan pulled the earrings worn by Anita Devi, tearing of her left ear and after snatching the 4 tolas of gold chain worn by her, also gave injuries to her with lathi blows. When Manju Devi intervene to save her mother, Prem Devi and Rekha Devi threw her on the ground and snatched the gold earrings worn by her. Accused Ghamandi and Ravi Bhan pushed Anita Devi on the floor and inflicted lathi blows on her chest. Thereafter, accused forcibly harvested the Bajra crops. The perusal of the trial Court judgment shows that before the trial Court after summoning, when Yudhvair and Anita Devi were summoned for pre-charge evidence, they made a statement that their evidence recorded at the time of summoning should be read for the purpose of evidence for pre-charge. This was objected to by the defence counsel. Learned Magistrate held that pre-summoning evidence cannot be read for the purpose of pre-charge evidence. We fully agree with the said view taken by the Magistrate that the evidence for summoning is only confined to satisfy the Magistrate as to whether there are sufficient ground to summon the accused. When the accused are summoned, the witnesses are required to be summoned and examined in the presence of the accused. It further comes out that the case of the complainant is not supported by the medical evidence. All the three daughters of the complainant, who were stated to have been injured, were not medico-legally examined. Further Yudhvair-complainant admitted in the cross-examination that he was not present at the time of occurrence. It further comes

out that the injury qua Anita Devi are not supported by medical evidence. It was alleged that earrings of the Sunita Devi were pulled which resulted in tearing of her left ear. However, in the MLR, only lacerated wounds were found and no fresh blood or clotted blood was present. Therefore, when the evidence of the complainant is not supported by the medical evidence and they did not examine themselves in examination-in-chief in pre-charge evidence, learned Magistrate rightly held that the case against the accused is not prove beyond all reasonable doubts. Moreover, it comes out from the complaint that the FIR No.165 dated 18.09.2010, at Police Station Kasola was registered against the complainant and the present case is a counter blast to the said FIR mentioning the incident of 17.09.2010. It is also on record that the accused also lead to the defence to show that the complainant is habitual of making false complaints to the various authorities. He even made a complaint to SHO, Model Town and Superintendent of Police, Economic Cell . But, his version was found to be not true. It being so, learned Magistrate has rightly appreciated the evidence that the charges are not proved beyond all reasonable doubts. There is no ground to grant leave to appeal.

Consequently, the application under Section 378(4) is dismissed and consequently, the appeal is also dismissed.

**(A.B. CHAUDHARI)**  
**JUDGE**

**(KULDIP SINGH)**  
**JUDGE**

**July 09, 2018**  
anju rani

Whether speaking/ reasoned: Yes  
Whether Reportable: Yes