IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM A-990-MA of 2016
Date of Decision: March 15, 2018

Amrik Singh .....Applicant

Versus

Joginder Singh and others ..... Respondents

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

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Present : Mr. Arshdeep Singh Brar, Advocate
for the applicant.

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T.P.S.MANN, J.

Complainant Amrik Singh 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 19.11.2015 passed by the Judicial Magistrate 1st Class, Moga, whereby the accused/respondents stands acquitted of the charges under Sections 326, 324, 323, 506, 148 and 149 IPC in a private criminal complaint.

According to the prosecution, complainant Amrik Singh and his brother Surjit Singh etc. used to cultivate the land after taking the same on lease whereas accused/respondents wanted to obtain possession of the said land, which belonged to Dharampal and others. On 11.10.2008 at about 11.00 a.m., when the complainant, his brother Balwinder Singh and their neighbour Baldev Singh were working in their respective fields, the accused,

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namely, Joginder Singh, Navjot Singh, Gurnam Singh, Harjit Singh and Gurdev Singh while duly armed came there on a tractor, make Swaraj, and asked them not to cultivate the land of Dharampal. Joginder Singh raised a lalkara to catch hold of the complainant party and they be done to death. Harjit Singh gave a blow from the reverse side of gandasa on the head of the complainant. As a result, the complainant fell down on the ground. Navjot Singh accused gave a kapa blow on the forehead whereas Joginder Singh accused gave a kirpan blow on the right leg of the complainant. In order to rescue himself from the attack, the complainant turned his face downwards. Gurdev Singh accused gave an iron rod blow whereas Gurnam Singh accused gave a dang blow on his back. On the alarm raised by the complainant, Balwinder Singh and Baldev Singh rushed to the spot and on seeing them the accused ran away alongwith their respective weapons.

Having heard learned counsel for the applicant and on going through the impugned judgment of acquittal, this Court finds that the complainant claimed himself to be in settled possession of the land in dispute, which belonged to Dharampal and others whereas accused wanted to forcibly take the possession of the same. However, no documentary evidence like khasra girdawari was produced nor the concerned patwari

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produced by the complainant to prove the fact that he was in settled possession of the land in dispute. On the other hand, the complainant feigned ignorance about the fact that the land in question had been purchased by Joginder Singh accused from Dharampal and others on 5.9.2008 and the possession delivered to the accused on the date of execution and registration of the sale deed, which was prior to the incident in question. He also admitted that no khasra girdawari of the said land had been entered in his name at any time nor he could produce any receipt or any agreement to establish that he had taken the land in question from Dharampal and others on lease. He further admitted that Police Station was at a distance of 50 yards from the place of occurrence but he could not give any explanation as to why he did not report the matter to the police immediately or thereafter.

On the other hand, the documents brought on record establish that Satpal, Sunita Rani, Gagan Chander, Dharampal and others were the owners in land in dispute and they had transferred the ownership alongwith its possession in favour of Joginder Singh accused besides delivering the possession. The accused also proved that on 22.10.2008, they had sold and transferred the possession of 2 kanals 10 marlas of land in favour of Dilbagh Singh son of Amrik Singh and Pargat Singh son of

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Surjit Singh. The entries in the revenue record also stand in the name of the accused. Therefore, from the oral as well as the documentary evidence by way of revenue record, it can be safely held that the version put-forth by the complainant does not inspire confidence.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal. The application is without any merit and, therefore, dismissed.

Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

March 15, 2018 **(DEEPAK SIBAL)**
amit rana **JUDGE**

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

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