

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-A-2632-MA-2017 (O&M)  
Date of decision: 15.02.2018

**Bhupinderjit Kaur**

**... Appellant**

**Vs.**

**State of Punjab and others**

**... Respondents**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: Mr. Puneet Kakkar, Advocate  
for the appellant.

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**ARVIND SINGH SANGWAN, J. (ORAL)**

**CRM-40033-2017**

Prayer in this application is for condonation of delay of 129 days in filing the appeal.

For the reasons stated in the application, same is allowed. Delay of 129 days in filing the appeal is condoned.

CRM stands disposed of.

**CRM-A-2632-MA-2017**

Challenge in this appeal is to the judgment dated 12.04.2017 passed by the trial Court, vide which the respondents-accused were acquitted in a complaint filed by the appellant-complainant under Sections 458, 395, 380, 457, 427, 379, 506, 148, 149 of the Indian Penal Code (for short 'IPC').

Brief facts of the case are that the appellant had filed a complaint against the accused persons under Sections 458, 395, 380, 457, 427, 379, 506,

148, 149 IPC with the allegations that she is wife of one Karnail Singh, Ex-serviceman. In the year 2005, she filed a complaint titled as Bhupinderjit Kaur Vs. Rampa etc., which was pending in the Court of Judicial Magistrate 1<sup>st</sup> Class, Moga. It was further alleged in the complaint that the accused persons are brother, sister-in-law and other relatives of the complainant, who have enmity with her and they had also registered an FIR No.216 dated 10.09.2005 under Sections 384, 506, 509 IPC, Police Station Baghapurana against the complainant and her husband and in that FIR, the complainant and her husband were arrested and later on released on bail. In the year 2005, two days after the Diwali festival, the complainant was called by the SHO for presentation of the challan against them and when they were returning back, 70/80 persons along with women came there and after breaking open the gate and lock of house of the complainant, entered her house, while armed with gandasa, rifle and dang. The complainant fled away from the spot to save her life and the accused persons committed theft of household articles and also threatened the complainant. The cause of occurrence was that the complainant has lodged a complaint with the police that accused persons were involved in preparing fake currency in the village and were also selling poppy husk and intoxicants etc.

After the complainant led preliminary evidence, the trial Court summoned accused No.1, 2, 7, 19 to 22 and 53 to face the trial vide order dated 22.10.2011. Thereafter, in the pre-charge evidence, the complainant examined herself as CW1 and her sons Harinder Singh and Shavinder Singh appeared as CW2 and CW3. The charges were framed against the accused persons under Sections 427, 379, 506, 148, 149 IPC, to which they did not plead guilty and claimed trial.

Thereafter, counsel for the accused made a statement that he does not want to further cross-examine the complainant's witnesses in the after charge evidence and the evidence was closed. The accused persons in their statements under Section 313 Cr.P.C. denied all the incriminating evidence led against them and pleaded false implication in the case. However, no oral evidence was led by the accused persons in the defence and they proved on record a copy of the application given to Deputy Commissioner, Faridkot as Ex.D1, copies of news items as Ex.D2 and Ex.D3, copies of affidavits dated 26.04.2007 and 14.03.2007 as Ex.D4 and Ex.D5, an application given to DC Moga on 10.11.2015 as Ex.D6 and copies of judgments dated 11.09.2013 and 07.02.2013 as Ex.D9 and Ex.D10.

The trial Court, after hearing counsel for the parties, vide its judgment dated 12.04.2017, acquitted the respondents-accused holding that the complainant has failed to prove her case, on the basis of evidence led by her. The present appeal has been filed challenging the said order.

Counsel for the appellant has argued that since the accused persons did not lead any defence evidence by examining any witness, the prosecution evidence remained un rebutted and the trial Court had wrongly acquitted them. It is further submitted that after framing of charge, no notice was given to the Public Prosecutor or the police and proper procedure was not followed. It is also submitted that the trial Court has given undue weightage to the defence version set up by the respondents-accused and therefore, the impugned judgment of acquittal is liable to be set aside.

After hearing learned counsel for the appellant, I find no merit in the present appeal.

From the perusal of complaint and the evidence shown by counsel for the appellant, it is apparent that the trial Court has dismissed the complaint against 49 accused persons nominated in the complaint, vide order dated 22.10.2011 and only accused No.1, 2, 7, 19 to 22 and 53 were summoned to face the trial. This order dated 22.10.2011 has become final, as the complainant has not filed any appeal or revision against the same, therefore, the trial, on appreciation of the statements of CW1 and her sons Harinder Singh and Shavinder Singh who appeared as CW2 and CW3, has recorded a finding that since there is no corroboration of any independent witness to prove that the respondents-accused had attacked the house of the complainant or removed the domestic articles from her possession.

In the absence of any eyewitness of the occurrence or any other evidence to substantiate the allegations against the accused persons, except the oral statements of the complainant and her sons, no specific overact can be attributed to any of the accused person. The allegations levelled by the prosecution witnesses are of general in nature that 70/80 persons have damaged their property and committed theft of their belongings.

Even on perusal of the evidence, no specific date or time of the occurrence and no description of the alleged articles stolen from the house of the complainant is given and therefore, the evidence led by the complainant is not trustworthy, especially in view of the fact that CW2 and CW3 have deposed that two persons namely Devinder Singh son of Jagir Singh and his son Gurdeep Singh had witnessed the occurrence, but none of them was examined as prosecution witness. Even Jagdev Singh, the then Sarpanch, who according to the complainant, was also informed about the incident, was not examined.

It is also relevant to note here that there is an inordinate delay of about 04 years in filing the complaint. As per the allegations in the complaint, the occurrence is pertaining to the year 2005. It may be noticed at the cost of repetition that no specific date or time was given, yet the present complaint has been filed in the year 2009 and therefore, no plausible explanation has been given by the complainant to justify this delay of four years in filing the complaint. Even the complainant could not prove that at any point of time, she had lodged any complaint with the police with regard to the aforesaid incident in the intervening period of four years, therefore, it can be safely held that a huge delay of four years in filing the complaint is fatal to the complainant's version.

It is also worth noticing here that the respondents-accused by leading documentary evidence had been able to prove that there was litigation between the complainant and accused persons and even the complaints were made to the Deputy Commissioner, therefore, filing of the complaint, after huge delay of four years, shows that it is just an afterthought, on account of settling the personal vendetta with the accused persons.

For the reasons recorded above, I find no illegality in the impugned judgment of acquittal dated 12.04.2017 passed by the trial Court.

Accordingly, the present appeal stands dismissed.

**[ ARVIND SINGH SANGWAN ]**  
**JUDGE**

15.02.2018

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No