

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.14345 of 2015
and
Criminal Misc. No.A-734-MA of 2015

.....

Date of decision:26.9.2018

Tarsem Lal

...Applicant

v.

State of Punjab and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Narinder S. Lucky, Advocate for the applicant.

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Inderjit Singh, J.

Cr. Misc. No.14345 of 2015:

For the reasons mentioned in the criminal miscellaneous application, the delay of 17 days in filing the appeal and application seeking leave to appeal is condoned.

The criminal miscellaneous application stands allowed.

Cr. Misc. No.A-734-MA of 2015:

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against State of Punjab and others-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 21.1.2015 passed by learned Judicial Magistrate Ist Class, Phillaur, Distt. Jalandhar, whereby the complaint filed under Sections 323, 324, 500, 506, 353, 427 and 34 IPC has been dismissed and the accused-respondents No.2 to 4 have been acquitted of the charges as

framed against them.

It has been mainly stated in the application that the accompanying appeal is being filed against the impugned judgment dated 21.1.2015 passed by learned Judicial Magistrate Ist Class, Phillaur, which is likely to succeed on the grounds mentioned therein. It has, therefore, been prayed that this application be allowed and leave be granted to the applicant to file appeal.

From the record, I find that Tarsem Lal-complainant filed complaint against Manjinder Singh alias Chhinda, Balwinder Singh alias Billu and Tarlok Singh alias Kalu for the offences under Sections 323, 324, 500, 506, 353, 427 and 34 IPC. The brief facts of the case as noted down by learned Judicial Magistrate Ist Class, Phillaur, in her judgment dated 21.1.2015 are as under:-

“The brief facts of the present complaint are that the complainant is resident of Village Rupowal, Tehsil Phillaur, District Jalandhar and is in service in Department of Punjab Police, District Ferozepur. He is posted in summons/warrants staff at Ferozepur Cantt. He is assigned the duty to get the summons/warrants served concerning the District Jalandhar, PPA, Phillaur and District Hoshiarpur. On 18.3.2009 after recording DDR No.4 in the relevant register in summons/warrants staff office, Ferozepur Cantt. complainant started on his way for his duty as stated above and on the same day, in his way, complainant received a phone call from his wife to come

back to his home due to illness of his son. Complainant came back to his Village Rupowal Tehsil Phillaur. On 19.3.2009 at about 9.30 AM, complainant started on his way from his Village Roopowal to get the service of his summons/warrants of PPA/Phillaur and Jalandhar on his scooter bearing No.PB 37A-6626. On the way accused No.1 to 3 encircled him in furtherance of their preplanning. Accused Balwinder Singh caught hold around him and accused Manjinder abused the complainant and attacked on the nose of complainant with the help of iron karha in his hand and accused Tarlok Singh @ Kalu took bite on little finger of his left hand at which complainant started making noise. Jaswinder Singh son of Nirmal Singh resident of Village Roopowal, Tehsil Phillaur rescued the complainant from the above named accused persons and also witnessed the above said occurrence. Accused snatched the summons from the pocket of complainant and tore the same and also threatened to kill the complainant. Complainant in the fear ran towards his home at which above named accused had damaged the scooter of complainant. Then Sukhwinder Singh son of Surjit Singh made arrangement for taking the complainant to Civil Hospital, Bilga, helped him in getting medical aid there. After that complainant got his x-ray done in Civil Hospital Bilga. Complainant along with witness went to the police station Bilga and informed the police at PS

[4]

Bilga of the above said occurrence. However no action was taken by the police against the above said accused persons.

Hence the present complaint.”

On finding a *prima facie* case, charges against accused were framed for the offences under Sections 323, 324, 353, 427 and 34 IPC, to which they pleaded not guilty and claimed trial.

The complainant produced his evidence. At the close of evidence, the statements of the accused were recorded under Section 313 Cr.P.C.

After appreciating the evidence, the accused were acquitted by the learned Judicial Magistrate Ist Class, Phillaur, vide judgment dated 21.1.2015. Aggrieved from this judgment of acquittal, the present appeal along with application seeking leave to appeal has been filed by the complainant.

I have heard learned counsel for the applicant and have gone through the record.

A perusal of the record shows that the findings have been given by the learned trial Court after appreciating the evidence in right and proper perspective. The findings have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence. Nothing has been pointed out as to which material evidence has been misread by the Court below and which material evidence has not been considered by the Court below.

A perusal of the record shows that the complainant, who is a

Police official, is alleging two injuries on his person, one by accused Tarlok Singh alias Kalu that he gave a bite on little finger of his left hand and the second injury that accused Manjinder attacked on the nose of the complainant with the help of iron karha in his hand. The doctor in his statement had stated that injury No.1 could not be effected by bite and injury No.2 could not be effected by iron karha. Otherwise also, injury No.1 was mentioned as abrasion over left hand little finger with stiffness and pain which cannot be given by bite. Similarly, the second injury was pain over forehead and base of nose with no visible external injury, which means that the medical evidence is not supporting the prosecution version. Furthermore, this occurrence took place, as per the allegations, on 19.3.2009 at 9.30 a.m. and the complaint was made on 11.4.2009 after delay of about 20 days.

The learned trial Court after appreciating the evidence has rightly acquitted the accused. The findings have been given by the Court below after appreciating the evidence in right and proper perspective which are as per evidence and law and the same do not require any interference from this Court and the same are upheld.

From the above, I do not find any ground to grant leave to file appeal. Therefore, finding no merit in the criminal miscellaneous application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal, the same is dismissed.

September 26, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No