

CRM-A-952-MA-2015

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

CRM-A-952-MA-2015 (O & M)

Date of Decision:16.08.2018

Gurmej Singh

... Applicant

Versus

Sucha Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Vikas Gupta, Advocate,
for the applicant.

INDERJIT SINGH, J.

CRM-19394-2015

This is an application for condonation of delay of 661 days in filing application seeking permission to leave the appeal.

Heard.

For the reasons as mentioned in the application, the same is allowed. Delay of 661 days in filing application seeking permission to leave the appeal is condoned.

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Applicant-Gurmej Singh has filed this application under Section 378 (4) Cr.P.C. seeking permission for leave to appeal against respondents-Sucha Singh, Hardeep Singh and Sarabjit Singh, challenging the impugned judgment dated 04.06.2013 passed by learned Additional

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Chief Judicial Magistrate, Tarn Taran, vide which the respondents were acquitted.

It is mainly stated in the application that accompanying appeal is being filed which is likely to succeed on the grounds taken therein. It is further stated that the trial Court has committed an error in acquitting the respondents. It is, therefore, prayed that leave to appeal be granted.

From the record, I find that applicant-complainant, Gurmej Singh filed a complaint against respondents namely Sucha Singh, Hardeep Singh, Sarabjit Singh and Joginder Singh, under Sections 452, 379, 148, 149, 506, 427 and 392 IPC. The brief facts of the complaint, as noted down by learned trial Court in the impugned judgment, are as under:-

“2. In brief, the facts of the present complaint are that the father of the complainant namely Shri Inder Singh was owner in possession of land bearing khasra no.217 (3-15), 218(54-13) situated in the area of village Jodhpur Tehsil Taran Taran. Said Shri Inder Singh has died on 16.12.1999 and he was co-sharer to the extent of ½ share in land measuring 174 K 12 mls and out of the total land, land measuring 87 k 6 mls came to the share of his father. The father of the complainant had executed a will dated 10.4.1999 in favour of the complainant and his brothers Sukhdev Singh, Surinder Singh and Kanwaljit Singh sons of Inder Singh. Being natural heir of his father Shri Inder Singh, the complainant Gurmej Singh is co-sharer in the said land to the extent of 1/5th share alongwith other co-sharers namely Sukhdev Singh, Gurdeep Singh, Jasbir Singh and Narinder Singh. Jasbir Singh son of Inder Singh had sold his share i.e. 14 kanals to Kashmir Singh vide sale deed dated

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22.8.1995 and Jasbir Singh was left with no share in the land left by Inder Singh. Thereafter the remaining land was divided by the complainant and his brothers, orally and the complainant is cultivating the land comprised in khasra no.214(4-6), 217(3-15, 218 (4-18) for the last so many years and he has sown wheat crop in the same.

3. It has further been averred that on 22.4.2003 at about 9.00 a.m. all the accused armed with deadly weapons came to the land of the complainant. Sucha Singh was armed with double barrel gun. Accused Hardeep Singh and Joginder Singh were armed with gandasies and Sarabjit Singh was driving the tractor and all the remaining accused were sitting on the tractor. Some unidentified persons were also with them. They had also brought a combine with them. Sucha Singh raised a lalkara that wheat crop sown by the complainant be cut and whosoever come forward be finished. The accused started cutting the crop sown by the complainant. Complainant tried to restrain them but Sucha Singh fired in the air. Complainant tried to snatch the rifle from Sucha Singh but Sucha Singh fired at the complainant and he sat down and escaped himself. All the accused forcibly restrained the complainant from entering his land and threatened him. The accused took away with them the crop of the complainant cut by them. Balbir Singh son of Chanan Singh witnessed the whole occurrence. Accused Sucha Singh is the Sarpanch of the village. The complainant reported the matter to police but the police did not take any action. Hence, the present complaint.”

On the basis of preliminary evidence, respondents/accused

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were summoned to face trial under Sections 447 and 379 read with Section 34 IPC.

During the pendency of complaint, accused-Joginder Singh expired and further proceedings against him were dropped vide order dated 11.10.2012.

In pre-charge evidence, complainant himself appeared into the witness-box as CW 3 besides examining Balbir Singh as CW 1 and Sukhdev Singh as CW 2. Thereafter, the respondents/accused were charge-sheeted under Sections 447, 379 and 427 read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

Thereafter, in their statements under Section 313 Cr.P.C., the accused denied all the incriminating evidence against them and pleaded their innocence. The accused opted to lead evidence in their defence. Accused-Sucha Singh vide his separate statement tendered into evidence certain documents and thereafter, all the accused facing trial closed their defence evidence by suffering a separate statement.

Learned trial Court, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 04.06.2013.

Aggrieved from the above-said judgment, present appeal along with application for grant of leave to appeal has been filed.

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

Perusal of record shows that findings given by learned trial Court are correct, as per evidence and law. In no way, the findings of trial

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Court can be held as perverse or against the evidence and law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Court below.

Further, I find that as per the complaint, the occurrence took place on 22.04.2003 whereas the present complaint was filed on 02.06.2003. The delay in filing the complaint has not been explained. It also looks unnatural that if crop of the complainant was taken away on 22.04.2003, then why he would keep silent till 02.06.2003. No document has been produced on record to show that the complainant party is in exclusive possession over these khasra numbers. The accused are also co-sharers in the disputed property. The khasra girdawaries have been corrected in the year 2008 in favour of the accused. The accused have already purchased the property in the year 2002 from other legal heirs of Inder Singh. The present complainant has also inherited the property of Inder Singh alongwith other legal heirs of Inder Singh. There is no document on record to show that the police was approached in the present case. The complainant has also concealed the material fact that the accused had purchased share from the legal heirs of Inder Singh vide different sale deeds in the year 2002. Though the complainant has mentioned that his brother, Jasbir Singh had sold out his share of the land, yet there is no mention regarding sale deeds executed in favour of the accused persons.

From the perusal of the record, I find that after scrutinizing and appreciating the evidence in right perspective, learned trial Court has correctly given the findings and acquitted accused-respondents. Nothing has been pointed out as to how the findings are perverse or against the law and

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what illegality has been committed by learned trial Court.

In view of the above discussed evidence, I find that the impugned judgment dated 04.06.2013 passed by learned Additional Chief Judicial Magistrate, Tarn Taran is correct, as per evidence and law and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

16.08.2018

parveen kumar

**(INDERJIT SINGH)
JUDGE**

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