

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

**361-A**

**CRM-A-463-MA-2013 (O&M)  
Date of Decision : 23.05.2019**

Satpal

... Applicant

Versus

Mahavir and others

...Respondents

**CORAM:HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr.D.S.Malwai, Advocate for the applicant.

**HARNARESH SINGH GILL,J.**

The applicant-Satpal has filed the present application under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment dated 17.12.2012, passed by the learned Additional Chief Judicial Magistrate, Kurukshetra.

Vide impugned judgment, the trial Court acquitted the respondents of the charges under Sections 323, 324, 506, read with Section 149 and 506 of Indian Penal Code, 1860 (for short 'IPC'). Aggrieved against the impugned judgment, the applicant had preferred an appeal which came up for hearing before the Additional Sessions Judge, Kurukshetra. Vide judgment dated 09.04.2013, the appellate Court had dismissed the appeal being not maintainable.

In brief, the complainant, who was working in the Haryana Roadways Department alleged that respondents No.1 to 3 had a bad eye on his wife. On 17.12.2012, brother-in-law of the applicant was discharged from PGI, Chandigarh, as he had received multiple injuries in

a road accident. On 22.12.2002, Shamsheer son of Mange Ram, Parmod son of Dharam Pal and Vikas son of Jagdish were present at the house of the applicant to know the physical condition of his brother-in-law. At about 8:30 p.m. all the respondents with their common intentions criminally trespassed into the house of the applicant and attacked him with their deadly weapons. It was further stated by the applicant that Parmod and Shamsheer had also received injuries at the hands of the respondents. After this occurrence, the applicant had approached the local police but no action was taken. Rather on 24.12.2002 the police officials of Police Station Sadar Thanesar had falsely registered an FIR No. 473 under Sections 323, 324, 325, 452 read with Section 149, 148 and 506 IPC that too at the instance of respondent No.4.

In the preliminary evidence, the applicant along with other three witnesses were examined. Thereafter, finding a prima-facie case against them, the respondents were summoned, vide order dated 01.10.2004 to face the trial.

All the respondents were charged for the commission of offence punishable under Sections 452, 323, 324 read with Sections 149, 506 IPC, vide order dated 01.11.2011 to which they pleaded not guilty and claimed trial.

In defence, the respondents had examined DW1-ASI, Mahender Singh and DW2-Ghati Ram.

However, vide order dated 17.12.2012 learned Additional Chief Judicial Magistrate, Kurukshetra acquitted all the respondents of the charges levelled against them.

Aggrieved of the judgment dated 17.12.2012, the applicant had

preferred an appeal before the Sessions Court. However, vide order dated 09.04.2013 the learned Additional Sessions Judge, Kurukshetra dismissed the said appeal being not maintainable in view of the provision of Section 378(4) Cr.P.C.

Still aggrieved of the judgment and order passed by the courts below, present application was preferred by the applicant-complainant.

Learned counsel for the applicant has laid stress on the issue that all the witnesses examined by the applicant, had proved the factum of the injuries inflicted on the person of the complainant by the respondents. The said injuries had been duly proved by the testimony of Dr. Anoop Jain as CW-4 vide MLRs Ex. PW4/C and Ex.PW4/D. Learned counsel for the applicant has further argued that the respondents had also managed to lodge a false case against the applicant under Sections 323, 324, 452, 506 read with Sections 149 and 148 IPC. Learned counsel for the applicant has further laid stress on the fact that the respondents namely, Jagat Singh and Rampal had taken a plea that they were out of station when the alleged occurrence took place but they had failed to prove that they were not present at the time of occurrence. No doubt they had placed on record Roznamcha Ex.D-A, but this document cannot be read into evidence being a photocopy of the original document.

After taking into consideration the above facts and circumstances, and going through the evidence led by both the parties, it is an admitted fact that the case regarding the same incident was registered vide FIR No. 473 dated 24.12.2002, under Sections 323, 324, 452, 148, 506 read with Sections 149 IPC at Police Station Sadar, Thanesar against the applicant and other persons at the instance of

respondent No.4-Manoj. The applicant along with others were convicted, vide judgment dated 17.09.2010 and were sentenced on 18.09.2010. It is a clear cut case in which the witnesses in the present case are the same persons who had been held guilty by the court of Judicial Magistrate Ist Class. Thus, the judgment dated 17.12.2012 is upheld. While upholding the judgment of acquittal, this Court must see that there is a manifest illegality in the judgment of acquittal or there must be a gross miscarriage of justice whereas, the judgment under a Revision is neither perverse nor is lacking the correct perspective of law as laid down by Hon'ble the Apex Court. The Hon'ble Supreme Court in ***Akalu Ahir v. Ramdeo Ram***, AIR 1973 SC 2145 has held that the High Court can interfere in the Revisional jurisdiction in the following categories:-

- (i) Where the trial Court has no jurisdiction to try the case, but has still acquitted the accused;
- (ii) Where the trial Court has wrongly shut out evidence which the prosecution wished to produced;
- (iii) Where the appellate Court has wrongly held the evidence which was admitted by the trial Court to be inadmissible;
- (iv) Where the material evidence has been over-looked only (either ?) by the trial Court or by the appellate Court; and
- (v) Where the acquittal is based on the compounding of the offence which is invalid under the law.

Learned counsel appearing for the applicant could not point out any material illegality or perversity in the impugned judgment of acquittal, which may warrant interference by this Court in the present application seeking leave to appeal.

Consequently, the application seeking leave to appeal is dismissed. Leave to appeal is declined.

**23.05.2019**  
pooja saini

**(HARNARESH SINGH GILL)**  
**JUDGE**

|                                   |               |
|-----------------------------------|---------------|
| <i>Whether speaking/reasoned?</i> | <i>Yes/No</i> |
| <i>Whether reportable?</i>        | <i>Yes/No</i> |