

CRM-A-1130-MA-2018

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

**CRM-A-1130-MA-2018 (O & M)
Date of Decision: 15.03.2019**

Surender

... Applicant

Versus

Narender @ Billu and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Angraze Singh Dhindsa, Advocate,
for the applicant.

INDERJIT SINGH, J.

CRM-21557-2018

Heard.

For the reasons as mentioned in the application, delay of 90 days in filing application seeking leave to appeal is condoned.

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Applicant-Surender has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents-Narender @ Billu and others, challenging the judgment dated 20.09.2017 passed by learned Judicial Magistrate Ist Class, Panipat, whereby the complaint filed by the applicant-complainant was dismissed and the accused-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, therefore, prayed that leave to appeal be granted.

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Perusal of record shows that complainant-Surender filed a complaint against accused, namely, Narender @ Billu, Devender @ Kalal, Jaibir, Sudesh and Ram Pyari, under Sections 148, 149, 323, 447, 448, 511, 506 and 120-B of the Indian Penal Code. The brief facts of the case as noted down by learned Judicial Magistrate Ist Class, Panipat, are as under:

“The present complaint has been filed by the complainant under Sections 148, 149, 323, 447, 448, 511, 506 and 120-B IPC against the accused alleging that on dated 27.02.2013, at about 8-9.00 P.M, complainant was going towards his fields for irrigation and when he passed by the side of his bara, then he saw that accused Narender, Devender and jaibir were putting earth in his Bara with the help of Tractor-Trolley, with the intention of encroaching upon the same. When the complainant restrained them from putting earth then they scolded him and, Jaibir and Narender caught hold of him and accused Devender hit the complainant with wooden stick. Jaibir and Narender also gave slaps and blows to him and Narender beaten the complainant with bitta. On hearing the noise of the fight, accused Ram Pyari and Sudesh also came there carrying Jailies in their hands and caused injuries to the complainant on his legs. Thereafter, Narender brought an iron plate from the tractor and caused injuries on the left hand of the complainant. In the wake of rescuing himself, the finger of the complainant cut with that iron plate. During this time, the brother of the complainant namely Subhash and his father also came from the house and tried to rescue the complainant from the clutches of the accused but they also gave beatings to them. On hearing the noise of the fight the people from the surroundings gathered there and on seeing them, the accused fled away from the place of occurrence along with their tractor trolley but before going from there

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they threatened the complainant that in future they would take possession of their bara and if any complaint is made by the complainant, then they would kill him. Complainant got his medical done on next date in civil hospital, Panipat and his MLR is bearing No.SL/47/13/PNP. The complainant gave application in police station Israna along with his medical, but no action was taken. Thereafter, the complainant approached the higher officers of the police, but no action was taken because the accused are influential people. Hence, the present complaint.

On the basis of preliminary evidence, the accused were summoned under Sections 323, 447, 506 and 34 of the IPC. In pre-charge evidence, complainant examined himself as CW 3 besides examining Soni as CW 1 and Satbir as CW 2. He also placed on record various documents.

On finding a prima facie case, the accused were charge-sheeted under Sections 323, 447, 506 read with Section 34 of the IPC, to which they pleaded not guilty and claimed trial.

At the close of complainant's evidence, the accused were examined under Section 313 Cr.P.C. wherein they were confronted with the complainant's evidence. They denied all the incriminating evidence against them and pleaded their false implication. After tendering documents Ex.D-1 to D-3 into evidence, the accused closed their defence evidence.

Learned Judicial Magistrate Ist Class, Panipat, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated 20.09.2017.

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

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

From the record especially the impugned judgment, I find that the findings have been given by the trial Court after appreciating the evidence in a right and proper perspective. In no way, the findings can be held as perverse or against the evidence and law. At the time of arguments, 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.

Perusal of record shows that as per the version of complainant, the occurrence took place on 27.02.2013 at about 8.00/9.00 P.M., but the complaint was filed on 14.08.2013 i.e. after a delay of about six months. There is no cogent reason to explain such a long delay, which creates a doubt in the complainant's version. Secondly, as per the complainant, MLR of the complainant has been got conducted. Though, he stated that injuries were given to him, but neither any doctor has been examined in the present case to prove the injuries nor MLR has been proved as per law. During the evidence, it has been proved that an FIR No.96 dated 12.04.2013, under Sections 376-D, 354-A, 315 and 120-B of the IPC, was registered against complainant-Surender on the complaint of wife of present accused Narender son of Jaibir. Sudesh wife of Narender has also been shown as accused in this case. In that case, Surender alongwith other accused have been convicted. The wife of Narender as well as Narender were also witnesses of the prosecution in that case and they had deposed against complainant-Surender. Therefore, in the facts and circumstances of this case, it looks

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that the present complaint was filed just to put pressure upon the accused and it is a counter-blast to the FIR case.

Learned trial Court has also discussed the statements of witnesses and by giving the benefit of doubt, the accused have been acquitted. From the perusal of the judgment passed by the Court below, I find that the findings given by the court below are correct, as per evidence and law and the accused have been rightly acquitted. In no way, the impugned judgment can be held as perverse or against the evidence and the same does not require any interference from this Court.

In view of the above discussion, I find that the impugned judgment dated 20.09.2017 passed by learned Judicial Magistrate Ist Class, Panipat is correct. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

15.03.2019

parveen kumar

**(INDERJIT SINGH)
JUDGE**

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