

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

**CRM-A No. 1850-MA of 2018 (O&M)
Date of Decision: 14.10.2019**

Jaswant Singh

..... Appellant/Complainant

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MS. JUSTICE JAISHREE THAKUR**

Present: Mr. Narinder Kumar Vadehra, Advocate
for the applicant-appellant.

JASWANT SINGH, J.

CRM No. 31275 of 2018

Present application has been filed under Section 5 of the Limitation Act for condonation of delay of **82 days** in filing the appeal.

For the reasons stated in the application, which is supported by an affidavit, the delay of **82 days** in filing the application for grant of leave to appeal is condoned.

Application stands disposed of accordingly.

CRM-A-1850-MA of 2018

1. Present application has been filed under section 378 (4) of the Code of Criminal Procedure, 1973 (in short “the Code”) for grant of Leave to Appeal against the judgment of acquittal dated 14.03.2018 passed by Judicial Magistrate Ist Class, Batala, whereby respondents/accused have been acquitted for the commission of offences under **Sections 326/324/323/34 of Indian Penal Code (IPC)**.

2. Applicant-Jaswant Singh son of Joginder Singh has filed a criminal private complaint against **Manjit Singh** son of Harpal Singh,

Gurjinder Singh son of Manjit Singh, **Baljit Kaur alias Beero** wife of Harpal Singh, **Balwinder Kaur** wife of Manjit Singh, **Gurwinder Kaur** and **Arvinder Kaur** daughters of Manjit Singh for the commission of offences under Sections **326/324/323/34 of IPC**. After trial, the Trial Court acquitted the accused/respondents **Baljit Kaur alias Beero, Balwinder Kaur, Gurwinder Kaur and Arvinder Kaur (respondent Nos. 2 to 5 herein)** for the commission of offences for which they were ordered to be prosecuted on the allegations that on 24.12.2011 at about 3.00 P.M. complainant/applicant was constructing a water course to irrigate his agriculture field, unfortunately there took place of an altercation with the accused party on account of construction of water course and he was given beatings by all the accused in furtherance of their common intention. The father of applicant/complainant, namely, **Joginder Singh** was also given beatings by the accused party when he was managing to rescue the applicant/complainant from the clutches of the accused. On receiving the injuries on their person, they were removed to Civil Hospital, Batala, by one witness Amarjit Singh son of Jora Singh. In the hospital, applicant/complainant and his father were medically examined by **CW1-Dr. Narankar Singh** and one injury on the person of father of applicant was declared as grievous. As such, on the basis of these allegations, the accused were ordered to be prosecuted by the Trial Court for commission of offences under Sections 326/324/323/34 of IPC.

To prove its case against the respondents, the applicant/complainant has examined the following witnesses:-

Dr. Narankar Singh as CW-1, **Dr. Sukhdeep Singh** as CW-2,

Jaswant Singh-Applicant/complainant himself appeared in the witness

box as CW-3 and he further examined **Mukhtiar Singh** as CW-4.

After completion of pre-charge evidence, the accused party was charge-sheeted for the commission of offences under Sections **326/324/323/447/34 of IPC** and all the accused were ordered to be charge-sheeted for these offences. In the post-charge evidence, the defence/respondents only further cross-examined the complainant and his witness Mukhtiar Singh. On completion of this evidence, the statement of accused/respondents under Section 313 Cr.P.C. were recorded. The Trial Court on the basis of evidence produced by the complainant has acquitted all the above referred respondents/accused for the commission of offences. However, the Trial Court has convicted one of the accused namely **Manjit Singh** only for the commission of offences under Sections 324/323 IPC and has acquitted him under Section 326 IPC and ultimately, the Trial Court has given the benefit of probation to this accused also. Now, applicant/complainant has assailed the findings of Trial Court vide which the Trial Court has acquitted the respondents Baljit Kaur, Balwinder Kaur, Gurwinder Kaur and Arvinder Kaur.

3. We have heard the learned Counsel for the appellant and have also gone through the paper-book very carefully with his assistance.

On the careful examination of the paper book, the Trial Court has rightly disbelieved the case of the prosecution against the respondents. The Trial Court on the basis of material contradictions in the statement of applicant/complainant and his witness Mukhtiar Singh has come to the conclusion that presence of these respondents/accused at the time of alleged occurrence is doubtful. In this manner, the complainant and his witness have failed to prove the participation of these respondents in the alleged

occurrence.

We are of the view that when there is enmity between two factions of the village, then there is tendency on the part of the aggrieved party to give an exaggerated version to rope in even innocent members of the opposite faction in a criminal case. Therefore, it is the duty of the Court to sift the chaff from the grain and to accept the evidence of the prosecution only to that extent which is believable. As such, the Trial Court has rightly disbelieved the stand of complainant with regard to role played by these respondents/accused and has rightly disbelieved the version of complainant to implicate these respondents.

4. That apart, the scope of the Appellate Court, while dealing with the appeals against acquittal, is settled. Though there is no embargo on the Appellate Court to reverse the decision based on the evidence upon which the acquittal is based, generally the order of acquittal based on presumption of innocence of the accused, is further strengthened by acquittal. The Appellate Court, while considering an appeal against acquittal, has to consider whether there are compelling and substantial reasons for reversing the order of acquittal. The Appellate Court can reverse the order of acquittal if the view taken by the Court is palpably erroneous and it could not have been taken by the Court of competent jurisdiction and is taken against well settled canon of criminal jurisprudence. Merely because the Appellate Court, on re-appreciation and re-evaluation of the evidence, is inclined to take a different view, interference with the judgment of acquittal is not justified. If the view taken by the trial Court is a possible view, even if two views are equally balanced, it need not result in interference by the Appellate Court in the judgment of the trial Court of acquittal. The

Appellate Court will have to see whether there is perversity in the decision, if the conclusions are contrary to the evidence on record, or the Court's entire approach is patently illegal or it is based on erroneous understanding. If the order of acquittal is to be reversed, the Appellate Court must examine and discuss the grounds given by the trial Court to acquit the accused and must give cogent reasons to overturn the findings. Thus, while considering the order against acquittal, generally the Appellate Court should not interfere where view taken by the trial Court is not unreasonable or perverse. With this legal position in mind, we have considered the view taken by the trial Court is a possible view and it does not require any interference by this Court.

5. In view of the above discussion, this Court is of the opinion that the trial Court, while appreciating the entire evidence in its proper perspective, has rightly held that the prosecution has failed to prove its case against the accused-respondents beyond any reasonable doubt. Thus, no case is made out for any kind of interference in the impugned judgment. The view of the trial Court is hereby affirmed and is maintained.

The instant **application** is without any merit and, therefore, **dismissed**. Leave to Appeal is declined.

(JASWANT SINGH)
JUDGE

October 14, 2019
'dk kamra'

(JAISHREE THAKUR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No