

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-1374-MA-2017(O&M)
Date of Order:03.05.2019

Paramjit Singh

..Petitioner

Versus

Ved Parkash and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Upender Prasher, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

CRM-19533-2017

Prayer in this application is for condonation of delay of 147 days in filing the appeal.

For reasons mentioned in the application, which is supported by an affidavit, the delay of 147 days in filing the appeal is condoned.

Application is allowed.

CRM-A-1374-MA-2017(O&M)

Leave to appeal has been sought against the impugned judgment acquitting the accused, dated 27.10.2016. The relevant finding of the Court are as under:-

“Switching over to the contents of the present case, the complainant was first of all required to prove on record his contentions qua Section 452 IPC. As per the version of the complainant accused persons have entered into the house forcibly and committed atrocities

upon him. In these set of circumstances, the complainant was duty bound to prove on record the fact that place of occurrence as alleged by the complainant was his house. The complainant has not produced on record even a single document concerning his ownership or possession of his house on which he has alleged to have committed the offence of house trespass by the accused persons. So considering these facts on record, in Paramjit Singh vs. Ved Parkash & others P/-16 my view, the charge u/s.452 IPC against the accused persons is not made out.

14. *Another charge against the accused persons is u/s.323 IPC. Section 323 IPC provides for punishment of causing hurt to the complainant. To prove on record his contention, complainant himself appeared as CW1 and also examined CW2 Dr.Manjit Singh. CW2 Dr.Manjit Singh has categorically stated that injuries on the person of complainant are simple. The concerned doctor has not given any version or any account for other injuries on the person of complainant. During cross-examination, CW2 has himself stated that possibility of sustaining injuries on the fall of surface cannot be ruled out. So this witness has not denied the factum of causing of injuries with the friendly hand or by falling on the hard surface. As such, in my view, the charge u/s.323 IPC is also not made out against the accused persons.*

The complainant was cross-examined in the present case, eventually. In cross-examination, CW1 complainant has very categorically stated that he has not handed over his blood stained clothes to the police. He also stated that he is habitual of making false complaints by showing false places of occurrence for blackmailing people. He also admitted the fact that he has not placed on record copy of sale deed of his property. He also admitted that he has not placed on record photograph of

the property where dispute has arisen between the parties. He has stated that in the police station where compromise is effected between the parties, his signatures were obtained on blank papers. But he has not Paramjit Singh vs. Ved Parkash & others P/-16 moved any complaint against police officials for obtaining signatures on blank papers. Complainant himself admitted that he has not went to the higher police official regarding not giving him hearing or not registering his case by the police officials. He has even admitted in his crossexamination that even the officials of the police station have immediately sent him to the doctor for medical investigation. In these set of circumstances, it cannot be assumed that police has shown some kind of laxity or shown some kind of favour to the accused persons by not acting as per the wishes of the complainant. Infact, as per the own version of the complainant he was sent for the medical examination on that very moment when he went to the police station. He has also stated that he has not given any application to the higher police official regarding obtaining his signatures on blank papers by the police officials. He has admitted the fact that he has given application to the police regarding the occurrence which was filed by the police as there was no truth in the allegations levelled by him.

15. *So the complainant has not examined any independent witness to corroborate his version in the complaint himself. Complainant has given the version that Vinod Kumar and Ashok Kumar came at the spot to rescue the complainant and saved him from the cluthches of the accused. These were the important witnesses for the complainant to prove his assertion, but these witnesses have not been examined by the complainant for the reason best known to him.*

Moreover, as per the own version of the complainant in the cross-examination there are five Paramjit Singh vs. Ved Parkash & others P/-16 members of the complainant in his family, but the accused persons have not inflicted any injury to any other person. The complainant has not even bothered to get examine his family members qua the occurrence as alleged by him or qua the infliction of injuries on him. The family members of the complainant could have been the great help for the complainant in proving on record his assertions qua the accused persons. The complainant has also stated in his testimony that he went to the police station in injured condition with his brother Gurmit Singh, but said Gurmit Singh has also not been examined. For non-examination of Vinod Kumar and Ashok Kumar independent witnesses, the complainant has stated that those were won over by the accused persons. Even if for the sake of argument if this contention of the complainant is considered, then also the complainant was having ample opportunity to examine his family members or his brother Gurmit Singh who as per his own version accompanied him to the police station and to the hospital for medical examination. It cannot be assumed that those witnesses who are the family members of the complainant were also won over by the accused persons. Hence, considering the entire facts and circumstances, contention of the complainant has not been proved on record.

16. Complainant has himself examined CW3 HC Davinder Singh with regard to the reporting of the matter to the police station in which there is DDR entry no.17 against the name of Paramjit Singh. Against that entry it has been written that compromise has been effected between the parties. The complainant is resiling from this compromise on the pretext Paramjit Singh vs.

Ved Parkash & others P/-16 that his signatures have been obtained on the blank papers by the police officials. The complainant is taking shelter of this document to prove on record the fact that actually occurrence took place as averred by him. At one point of time, the complainant is taking the plea that his signatures on this document were obtained by police on blank papers and at another point of time, the complainant is denying the contents of this document and at the same point of time, the complainant is trying to prove the occurrence through this document. The complainant, in my view, cannot be allowed to blow hot and cold at once. Either he should admit this document or deny this document. So, there is contradiction qua this document regarding the stand of the complainant. However, during the course of cross-examination, the complainant has also admitted that compromise has been effected between the parties and his application was filed by the police officials being moved on the false ground. Hence, considering the entire facts and circumstances on record, in my view, the complainant has miserably failed to discharge the burden cast upon him.

17. In view of the discussion made here-in-above, I have no hesitation in holding that complainant has failed to prove his case beyond shadow of reasonable doubt especially in view of the aforesaid circumstances which creates doubt about the very version of the complainant, as such accused are definitely entitled to be given benefit of doubt and accordingly I hereby acquit all the accused while giving them full benefit of doubt and dismiss the complaint. The bail bonds and surety bonds of accused stand discharged. File be consigned to the record room.”

Learned counsel for the petitioner made sincere attempt to

persuade this court to grant leave, however, keeping in view the findings which have been recorded, as extracted above, which is based on proper appreciation of evidence and learned counsel failed to point out any perversity or material irregularity in the aforesaid findings, therefore, the application for leave to appeal is rejected.

Consequently, the appeal is also dismissed in limine.

May 03, 2019
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(ANIL KSHETARPAL)
JUDGE

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