

CRM-A-1407-MA of 2017

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

CRM-A-1407-MA of 2017
Date of Decision: 05.03.2019

Amilal

....Applicant

Versus

Lal Chand and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Manish Mehta, Advocate, for the applicant.

RAMENDRA JAIN, J. (ORAL)

Through instant application under Sections 378(4) Cr.P.C. applicant-complainant has sought permission to file appeal against judgment dated 21.02.2017 of the trial Court whereby respondents were acquitted of the charges under Sections 323, 325, 452, 506/34 IPC.

Briefly, applicant filed a complaint against 19 persons under Sections 148, 149, 323, 325, 427, 452 and 506 IPC on the allegations that in the day time of 28.04.2012, when his younger brother Balbir was going on tractor, around 8-10 persons on a tractor armed with sticks, iron rods etc. stopped his tractor and attacked him. Thereafter, when complainant reached home, he found that 20-25 persons, armed with axe, farshi, sticks, stones etc., were striking iron rods on the door of his house. They attacked the complainant. As a result thereof his left shoulder got dislocated, besides receipt of various injuries on his back. His brother was also

beaten. Resultantly, he too received multiple injuries.

After recording preliminary evidence, only respondents herein

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were summoned to face trial under Sections 323, 325, 452, 506/34 IPC, dismissing the complaint of the applicant against remaining 17 persons. Therefore, holding full-fledged trial, respondents were also acquitted by the trial Court vide judgment dated 21.02.2017.

Learned counsel for the applicant *inter alia* contends that the trial Court illegally ignored the statement of Dr. Kanwar Singh, corroborating the testimony of applicant qua dislocation of his shoulder and receipt of injuries on his back.

Having given thoughtful consideration to the submissions made by learned counsel for the applicant, this Court finds the instant application completely devoid of any merit for the reasons to follow.

According to the applicant, his brother Balbir had also received multiple injuries at the hands of respondents and their 17 accomplice. However, he did not medico-legally examine himself for the reasons best known to him. Therefore, in the absence of any evidence, applicant could not prove that Balbir was also beaten up by the respondents.

As far as dislocation of applicant's shoulder is concerned, same is not a fracture, rather such type of injuries fall under Section 323 IPC.

Trial Court rightly and legally observed that if a person and his family member is attacked by 20-25 persons armed with deadly weapons, it is impossible that they would not receive any grievous injury. In the instant case, applicant was allegedly attacked by 20-25 persons. Therefore, sufferance of simple injuries by him in such a wild attack itself proves his story false and concocted, in view of the fact that applicant approached the police after two days of the alleged occurrence, though

was perfectly in senses on the date of occurrence itself.

Version of the applicant was found false against 17 persons,

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who were arrayed as accused by the applicant in the impugned complaint. They were even not summoned to face trial by dismissing the complaint of the applicant to that extent.

I have gone through the impugned judgment of the trial Court and find no illegality or perversity in the same.

Hence, leave to appeal is declined.

March 05, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No