

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

CRM No.A-2216-MA of 2016 (O&M)
Date of decision: May 13, 2019

Anita

...Applicant

Versus

Kartar Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ajay Aggarwal, Advocate for
Mr.Sandeep Goyat, Advocate
for the applicant.

INDERJIT SINGH, J.

CRM No.40018 of 2016

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 183 days in filing the application seeking leave to appeal, is condoned.

CRM No.A-2216-MA of 2016

Applicant-Anita has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondent Kartar Singh, challenging the judgment dated 18.03.2016 passed by learned Judicial Magistrate Ist Class, Hisar, whereby accused-respondent was 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.

As per the record, complainant Anita filed a complaint against

accused Kartar Singh under Sections 294, 323, 324, 354, 452 and 506 IPC.

The brief averments of the complaint as noted down in the judgment passed by learned JMIC, Hisar, are as under:-

“Brief facts of the complaint are that the complainant is a peace loving citizen and accused Kartar is a dangerous person who does not care for law. On 7.12.2011, at around 12/12.30 noon, when the complainant was alone in her house, then accused tried to see inside the house. When she raised objection, then the accused became angry and started hurling abuses and threatened to kidnap her daughter. Accused gave blows on her person and when in order to save herself she entered into her house, then also accused forcibly entered into her house. Telu Ram son of Sh. Badlu Ram who was doing work of fixing stones, interfered and in the meantime, she telephoned her husband on his mobile and narrated the incident to him. In the meanwhile, her husband came back and when he also objected to the conduct of accused, then accused started abusing her husband too and while leaving the spot, accused threatened to kill her and her husband. She also suffered severe injuries at the hand of the accused and when she complained to the police of P.P. Azad Nagar, Hisar, police ensured to take action against the accused, but when complainant alongwith her husband went to the house of accused accompanied by police, then accused again started quarreling with the complainant and tried to outrage her modesty and damaged the vehicle of the complainant. One other person was also there who fully supported the accused in his illegal acts and the police official did not even interfere in it. It has been submitted that the police colluded with the accused and no action was taken. Hence, the present complaint has been filed.”

In support of her case, complainant examined herself as PW-1, PW-2 Telu Ram and her husband PW-3 Rajesh Kumar.

Finding prima facie case, the accused was charge-sheeted under Sections 452, 323 and 506 IPC.

At the close of complainant's evidence, the accused was examined under Section 313 Cr.P.C. He was confronted with the evidence of the complainant and he denied all the incriminating evidence against him

and pleaded his innocence. The accused also tendered documents Ex.D2 to D6.

Learned JMIC, Hisar, after appreciating the evidence, acquitted the accused-respondent vide impugned judgment dated 18.03.2016.

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

Lower Court record was also requisitioned.

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

From the perusal of the record, I find that as per complainant's version, the occurrence took place on 07.12.2011 but the complaint was filed on 24.12.2011 i.e. after long delay. Furthermore, as per the allegations in the complaint, beating was given to the complainant and when she called her husband, even beating was given to him but neither complainant nor her husband got themselves medico legally examined. The oral statements of PWs are not supported by medical evidence.

Learned trial Court has held that in the first complaint Ex.D1 given by the complainant, name of the accused has not been mentioned and further, presence of alleged witness is also not mentioned in the complaint. The complainant also gave complaint to SSP, Hisar, Ex.P6 and that complaint also, does not reveals the name of accused. Learned trial Court held that presence of Telu Ram on the spot is doubtful. The witnesses are interested witnesses. Otherwise also, it looks unnatural that accused entered in the house of complainant, abused her, also gave beatings and when complainant called her husband telephonically, accused waited there till arrival of husband of the complainant. Moreover, complainant and her

husband have not got themselves medico legally examined, therefore, injuries are not proved. Even, in the complaint Ex.D1, there is only allegation that one person came at the house of the complainant at about 12-12.30 p.m., who used abusive language and threatened that he would get kidnapped daughter of the complainant and when the persons from neighbourhood gathered, then said person fled away from the spot on his motorcycle. Similarly, the facts regarding quarrel in the presence of police and outraging the modesty, are not mentioned in the earlier complaint.

The perusal of the findings given by learned JMIC, Hisar, shows that these have been given as per evidence and law. 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 trial Court. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by learned trial Court. The findings have been given by correctly appreciating the evidence in right perspective. Reasonable doubt exists in the complainant's version and accused-respondent has been rightly acquitted.

In view of the above discussion, I find that the impugned judgment dated 18.03.2016 passed by learned JMIC, Hisar, is correct, as per law and evidence and does not require any interference from this Court. No ground is made out for grant of leave to appeal and therefore, the present application stands dismissed.

May 13, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No