

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-2451-MA-2018
Date of Decision: 14.11.2019

Achhar Singh

...Applicant

Versus

Jagdish Kumar and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Anurag Chopra, Advocate for the applicant.

ANIL KSHETARPAL, J.

Special leave to appeal has been sought under Section 378 (4) of the Code of Criminal Procedure (for short 'the Code') against the judgment of acquittal passed by the Court of Sessions vide judgment dated 16th August, 2018, dismissing the complaint under Sections 452, 323, 148 and 149 of the Indian Penal Code.

At the outset, it must be noticed that appeal against the judgment of conviction filed by appellant No.1 with others i.e. CRA-S-3477-SB-2018 has been allowed by a separate detailed judgment.

The case of the prosecution, as noticed by the learned Additional Session Judge, correctness whereof is not disputed, is extracted as under:-

“As per prosecution case, complainant Achhar Singh filed a complaint against the accused on the allegations that the Abadi of complainant is adjoining with the residential house of accused Jagdish Kumar. The flow of dirty/sullage water of the house of accused Jagdish Kumar falls in katcha passage and the dirty/sullage water was standing in katcha

passage as share of pond. On 09.08.2013, Avtar Singh brother of complainant died. On 11.08.2013, complainant asked to Sangat Singh @ Gonna son of Gurdev Singh that one wooden cart of earth is lying in the kacha passage near the abadi of complainant. On that day, Sangat Singh @ Gonna was doing cleaning the drains of the village and was laying wooden cart of garbage in the kacha passage near the abadi of complainant. On that day, Sangat Singh @ Gonna was doing cleaning the drains of the village and was laying wooden cart of garbage in the kacha passage near the abadi of complainant. On 11.08.2013 at about 6.00 P.M., the complainant and his son Manjit Singh were cutting green fodder on fodder machine (toka machine) in their Abadi. Then at about 6.15 P.M., accused Jagdish Kumar armed with gandasa, accused Amit Kumar armed with salung, Nita armed with Gandasa, Rinku armed with takua and Pushpa Rani empty hands entered in the abadi of complainant. The complainant was man-handled in the abadi and dragged him out in the kacha passage. Accused Jagdish Kumar gave a gandasa blow from blunt side on nail of thumb of left hand of complainant. Accused Amit Kumar @ Sonu gave a salung iron from blunt side on left arm of complainant. Rinku gave a takua blow from blunt side on the ring finger of left hand of complainant and Nita gave a gandasa blow from blunt side of the left eye of complainant. Accused Pushpa Rani gave abuses standing nearby. Manjit Singh tried to save the complainant from the clutches of accused. Then accused Jagdish Kumar gave a gandasa blow from blunt side on the head of Manjit Singh and accused Sonu alias Amit Kumar gave a salung blow on the left side of chest of Manjit Singh. The complainant and his son Manjit Singh and accused persons were scuffling with each other in their defence purpose and to escape from the clutches of accused persons. Ranjit Singh son of complainant and other villagers reached at the spot, then accused persons ran away from the spot with their respective weapons. After sometime,

Ranjit Singh took the complainant and his brother Manjit Singh to the Civil Hospital, Samrala in a private car where they were medically examined. On the same day, accused also arrived to the Hospital and were got admitted there. Police of P.S. Samrala came to the Civil Hospital, Samrala on 13.08.2013 and recorded the statement of complainant. Motive behind the occurrence is that Amit Kumar belonging to Akali Dal was standing in the elections of Gram Panchayat of Village and Sarpanch Gurinder Singh was standing in that election from Congress seat. Amit Kumar is real uncle and Massar of accused Jagdish Kumar. Amit Kumar, Jagdish Kumar and his family have enmity with the complainant from the election time. Local Ex.MLA was also supporting the accused persons. The complainant and his family members did not cast their votes to Amit Kumar in the elections. Police has registered a false case against the complainant and his family. The wife of complainant was not present on the spot. The police was saying that cross-case will be registered against the accused but till date, no action has been taken against the accused persons. The complainant moved applications to the Hon'ble Chief Minister, DGP Punjab and others for taking action against the accused. Hence this complaint.

Learned Court has found that the prosecution has failed to prove its case beyond reasonable doubt as x-ray examination of Achhar Singh and Manjit Singh have not been produced. The Court has further found that there is delay of two days in filing the complaint. The learned Court of Sessions has stated that the evidence led by the prosecution (complainant) is full of contradictions and there are improvements in the case made by the prosecution witnesses.

This Court has heard learned counsel for the applicant at length and with his able assistance gone through the judgment passed.

Although learned counsel for the applicant has made sincere

attempt, however could not draw attention of the Court to any perversity or substantive error in the judgment of acquittal. By a detailed judgment in the connected appeal i.e. CRA-S-3477-SB-2018, this court has held that from the evidence available on the file, it is not established that which party was the aggressor party. Still further, the Court has found that since there is old enmity between the parties, therefore chances of false implication cannot be ruled out.

Keeping in view of the aforesaid detailed reasons recorded in the judgment of even date in CRA-S-3477-SB-2018, the present application for special leave appeal is also rejected. Consequently, the appeal shall stand dismissed.

14.11.2019
mks

(ANIL KSHETARPAL)
JUDGE

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