

CRM-A-1581-MA-2015

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

**CRM-A-1581-MA-2015 (O & M)
Date of Decision: 03.07.2019**

Major Singh

... Applicant

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. L.S.Sidhu, Advocate,
for the applicant.

INDERJIT SINGH, J.

Applicant-Major Singh has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against respondents-State of Punjab and others, challenging the impugned judgment dated 03.07.2015 passed by learned Judicial Magistrate Ist Class, Moga, whereby respondents No.2 to 5 were acquitted of the charges framed against them.

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 further stated that the court below, while passing the impugned judgment, has ignored the positive evidence led by the complainant-applicant. The findings of the trial Court are without any reasoning, but only on flimsy grounds. It is, therefore, prayed that leave to appeal be granted.

Perusal of record shows that complainant-Major Singh filed a complaint against respondents No.2 to 5-accused, Jaswant Kaur, Wasan Singh, Santokh Singh and Mohinder Singh and accused Sukhdeep Singh, under Sections 447, 385, 323 and 148 read with Section 149 of the IPC.

CRM-A-1581-MA-2015

The facts of the complaint, as noted down by learned Judicial Magistrate Ist Class, Moga, are as under:

“2. Complainant Major Singh filed the present complaint under Sections 447, 385, 323 and 148 read with Section 149 of Indian Penal Code against the accused Jaswant Kaur, Sukhdeep Singh, Wasan Singh, Santokh Singh and Mohinder Singh, on the allegations that there was land dispute between the complainant and accused and case was pending in the court which has been decided. As per the order of the court, Kanungo visited the spot and handed over the possession of land to him. The complainant has also deposited land revenue with Government. But on 23.06.2004, all the accused trespassed the land and removed the “thaddas” affixed by the Kanungo. The complainant restrained the accused from doing so but all the accused gave beatings to the complainant and snatched Rs.4900/- from his pocket. The complainant brought the matter into the notice of District Revenue Officer, Moga, who got registered FIR No.127 dated 31.10.2004 against the accused Jaswant Kaur, Sukhdeep Singh, Wasan Singh, Santokh Singh and Mohinder Singh, but instead of challan against them, a cancellation report was presented. Hence, this complaint.”

After appreciating the preliminary evidence, the accused were summoned to face trial for the offences under Sections 447, 385, 323 and 148 read with Section 149 of the IPC. Vide order dated 31.07.2013, proceedings qua accused-Sukhdeep Singh were separated on the ground that

CRM-A-1581-MA-2015

he was a juvenile.

In pre-charge evidence, the complainant himself appeared in the witness-box as CW 4 besides examining CW 1 Nirbhai Singh, CW 2 HC Sarabjit Singh, CW 3 Manjinder Kaur, CW 5 Harjiwan Singh, Patwari. On the basis of pre-charge evidence, accused, Jaswan Kaur, Wasan Singh, Santokh Singh and Mohinder Singh, were charge-sheeted under Sections 148, 323, 447 and 385 read with Section 149 of the IPC, to which they pleaded not guilty and claimed trial.

In post charge-evidence, the accused cross-examined CW 3 Majinder Kaur and CW 4 Major Singh.

At the close of complainant's evidence, accused-respondents No.2 to 5 were examined under Section 313 Cr.P.C. wherein they were confronted with the evidence. They denied all the incriminating evidence against them and pleaded false implication. In their defence, the accused examined DW 1 Guriqbal Singh, DW 2 SI Rajinder Singh and DW 3 Inspector Jaspal Singh.

Learned Judicial Magistrate Ist Class, Moga, after appreciating the evidence, acquitted the accused-respondents No.2 to 5 vide impugned judgment dated 03.07.2015.

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

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

Perusal of record, especially the impugned judgment, shows that the findings have been given by the trial Court as per evidence and law

CRM-A-1581-MA-2015

and in no way, the same can be held as perverse or against the evidence. 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 court below. Nothing has been pointed out as to how the findings are perverse or against the law and what illegality has been committed by the court below.

Perusal of record shows that the complainant has not been medically examined. Earlier also, FIR No.127 dated 31.10.2004 was registered but no challan was presented and cancellation report was filed. The police, during investigation, found that no such occurrence had taken place. There is no allegation in the FIR that any beating was given to the complainant or anybody else. This version has come in the complaint. Secondly, there is no MLR to show any injury on the person of complainant etc. Thirdly, there are no specific allegations as to who was armed with which weapon and as to who had caused the injury on which part of the body. Similarly, there is no specific allegation as to who had taken away Rs.4,900/- from the pocket of the complainant. Only general allegations have been levelled. The trial Court has also discussed the discrepancies regarding the time of delivery of possession. CW 1 Nirbhai Singh, Kanungo, stated that it was delivered at 11.00 a.m., whereas CW 3 Manjinder Kaur stated that it was delivered after 12.00 noon and CW 4 Major Singh stated that it was delivered between 7.30 to 8.00 a.m. Further, the alleged occurrence took place in day time but only the complainant and his wife had deposed against the accused. No independent witness has been examined by the complainant, who had seen the occurrence.

CRM-A-1581-MA-2015

Furthermore, it is clear from the record that a litigation was already pending between the parties regarding the land in question and a civil suit was filed by the accused and status quo order has been passed by the civil court in favour of the accused. A reasonable doubt exists in the case of complainant and the trial Court has rightly acquitted the accused.

In view of the above discussion, I find that the impugned judgment dated 03.07.2015 passed by learned Judicial Magistrate Ist Class, Moga, is correct and as per law and the same 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.

03.07.2019

parveen kumar

**(INDERJIT SINGH)
JUDGE**

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