

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.A-1601-MA of 2015

.....

Date of decision:04.04.2019

Mandeep Singh

...Applicant

v.

Charan Singh and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Gulzar Mohd., Advocate for the applicant.

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Inderjit Singh, J.

The complainant/applicant has filed this criminal miscellaneous application under Section 378(4) Cr.P.C. against Charan Singh and others-respondents seeking grant of leave to file appeal against the impugned judgment of acquittal dated 16.7.2015 passed by learned Judicial Magistrate Ist Class, Ludhiana, whereby the complaint filed under Sections 323, 452, 506 and 34 IPC has been dismissed and the accused-respondents have been acquitted of the charges as framed against them.

It has been mainly stated in the application that accompanying appeal is being filed against the judgment dated 16.7.2015 passed by learned Judicial Magistrate Ist Class, Ludhiana, which is likely to succeed on the grounds mentioned therein. It has been stated that there is a prima

facie case in favour of the applicant. Various illegalities are pointed out in the grounds of appeal which warrant acceptance of the appeal. It has, therefore, been prayed that this application be allowed and leave be granted to the applicant to file appeal.

From the record, I find that Mandeep Singh-complainant filed complaint against Charan Singh, Davinder Kaur, Ajay Singh and Gurinder Kaur for the offences under Sections 323, 452, 506 and 34 IPC. The brief facts of the case as noted down by learned Judicial Magistrate Ist Class, Ludhiana, in his judgment dated 16.7.2015 are as under:-

“Adumbrated the assertions made in the complaint are that complainant is resident of E-Block, Ranjit Avenue, Amritsar. Accused no.4 is wife and accused no.1 & 2 are father-in-law and mother-in-law of complainant and accused no.3 is brother-in-law of complainant. Since the performance of marriage, accused no.4 had been maltreating the complainant and the complainant was constrained to file a divorce petition under section 13 of Hindu Marriage Act 1955, against accused no.4. All the accused persons were keeping ill will and mala fide intention for the complainant and his other family members. During course of divorce petition, the accused no. 4 had filed a petition under section 26 of the Hindu Marriage Act for obtaining custody of the minor children from complainant. The aforesaid petition was declined. Ultimately on 06.01.2008, at about 8.00 PM, the complainant was sitting in his house along with his family members. The outer gate of house of the

complainant was knocked and when the father of the complainant had gone outside, he had seen accused standing at outer gate. Accused had asked to the father of complainant that they had come to settle the dispute and accordingly by giving false assurance of settling the things, they entered into the house of complainant. Ajay Singh had taken out knife from his pocket and he had threatened to the complainant that today he had come to finish up the complainant. Charanji Singh had called 6-7 unknown persons armed with hockey's and rods. Iqbal Singh who had come to the house of complainant had tried to resist the wrongful acts of accused persons, upon which Davinder Kaur had raised a Lalkara that let today the entire story be finished. Charan Singh had started giving slaps and fist blows on the person of complainant while Gurinder Kaur had also started giving slaps on the person of complainant. Ajay Singh along with knife and unknown assailants with the help of their hockey's and rods had restrained the father of the complainant and accused Charan Singh removed Patka of the complainant. Then outer gate of the house once again was knocked by some person and accused persons had ran away after giving threats to the complainant and his family members. Complainant narrated the above said occurrence to the police, but since the police has not taken any action against the accused so far. Hence, the present complaint.”

The accused were summoned for the offences under Sections 452,

323, 506 and 34 IPC. In pre-charge evidence, the complainant has examined CW-1 Iqbal Singh, himself as CW-2, Santokh Singh as CW-3 and closed his pre-charge evidence. On finding a *prima facie* case, charges against accused were framed for the offences under Sections 452, 323, 506 and 34 IPC, to which they pleaded not guilty and claimed trial. After charge evidence, the accused have further cross-examined the aforementioned witnesses. Thereafter, the complainant closed his evidence.

At the close of prosecution evidence, the statements of the accused were recorded under Section 313 Cr.P.C. and they were confronted with the evidence against them, but they denied the correctness of the same and pleaded themselves as innocent.

The accused examined Jaswant Singh as DW-1, Harbhajan Singh as DW-2, Baldev Raj as DW-3.

After appreciating the evidence, the accused were acquitted by the learned Judicial Magistrate Ist Class, Ludhiana, vide judgment dated 16.7.2015. Aggrieved from this judgment of acquittal, the present appeal along with application seeking leave to appeal has been filed by the complainant.

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

From the record, I find that the findings given by the learned trial Court are correct as per evidence and law. The evidence has been appreciated in right and proper perspective. In no way, the findings can be held as perverse. Nothing has been pointed out as to which material evidence has been misread by the Court below and which material evidence

has not been considered by the Court below.

The occurrence had taken place on 6.1.2008 and the complaint was filed on 13.1.2008 after delay of 7 days. There is nothing in the complaint or in the evidence that the matter was ever reported to the Police. Delay of 7 days becomes more important in the present case as firstly, there is no medico-legal examination of the injured and secondly, that accused Gurinder Kaur is wife of the complainant. Charan Singh and Davinder Kaur are father-in-law and mother-in-law of the complainant and Ajay Singh is his brother-in-law. A perusal of the record further shows that litigation was already going on between the parties and even the FIR has been registered against the complainant etc. for the offences under Sections 406 and 498-A IPC.

The learned trial Court has rightly reached at the conclusion that if four accused along with 4-5 other persons armed with knives, hockey, dangs, iron rods etc. will go to the house of the complainant then they will not cause the injuries with slaps and fist blows. The learned trial Court held that the version is improbable.

Keeping in view the above facts, I find that a reasonable doubt exists in the complainant's case and the accused-respondents have been rightly acquitted. The findings have been given by the Court below after appreciating the evidence in right and proper perspective which are as per evidence and law and the same do not require any interference from this Court and the same are upheld.

From the above, I do not find any ground to grant leave to file appeal. Therefore, finding no merit in the criminal miscellaneous

application filed under Section 378 (4) Cr.P.C. seeking leave to file appeal,
the same is dismissed.

April 04, 2019.

(Inderjit Singh)
Judge

hsp

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