

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

219

CRM-A-2246-MA-2017 (O&M)

Date of decision: 02.07.2019

Vijay Singh

..... Applicant

Versus

Rajesh and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL**

Present:- Mr. M.S. Randhawa, Advocate  
for the applicant.

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**ANIL KSHETARPAL, J.(ORAL)**

Application for leave to appeal under Section 378(4) of the Code of Criminal Procedure has been filed against the judgment of acquittal passed by the learned Additional Sessions Judge, Narnaul dated 31.07.2017.

Heard learned counsel for the appellant.

Learned Court has noticed that the prosecution has failed to prove its case beyond reasonable doubt and the alleged victim/complainant has tried to improve his case while appearing in the witness-box. In Para 21 of the judgment, the Court has noticed the statement of the complainant, the alleged victim, and the improvement made by him when compared with the application Ex.PW-8/A. The finding recorded in Para 21 is extracted as under:-

*“After going through the testimony of prosecution witnesses as well as documents placed on court file this court is of the*

*considered opinion that no case is made out against the accused persons. The present case was registered on the statement of complainant Vijay Singh who moved a complaint to the police stating therein that on 6.8.2016 at about 9/10.00 A.M. he was going from his house in the village for some personal work on his motor cycle then his motor cycle was stopped by accused Rajesh near the shop of Shish Ram. After that, he started quarreling with the complainant by saying that why he had made complaint to the higher officers against his family members. Accused Rajesh slapped on his ear and face and also used some derogatory words in the name of the caste of complainant by saying him Dhedh/Chamar. In order to prove the version of the complaint, the complainant himself appeared into the witness box as PW8 and admitted in his cross-examination that he did not mention in his application Ex.PW8/A that when he was going from his house on his motor cycle and reached near the shop of Shish Ram then he met with accused Rajesh who was already present there. He further admitted this fact in his cross-examination that he did not mention in his application that accused asked him why he had made complaint to higher officers against the family members of the accused. He also did not mention in his complaint that he felt humiliated with the derogatory language used by the accused. Further as per his testimony the occurrence was witnessed by Mukesh and Dalip alongwith some other persons of the village. But he had not mentioned in his application name of Dalip and other persons when accused Rajesh allegedly gave beatings to him and used derogatory language. In his statement given by him as PW8 he also mentioned the genesis of the dispute that he had made complaint against the family members of the accused Rajesh as they involved in selling illicit liquor. But this fact has also not mentioned in application Ex.PW8/A that the family members of accused Rajesh used to sell illicit liquor and he had made complaint against them. Meaning thereby what is mentioned in the complaint by the complainant has not been disclosed by him when he stepped into the witness box as PW8. The testimony of*

*complainant Vijay Singh also cannot be taken into consideration because when he stepped into the witness as PW8 he categorically denied having registration of other criminal cases against him. Whereas the defence has placed on court file 3/4 photo state copies of First Information Report which have been registered against him as mark-DA to DC. At least he should not deny these facts/cases which have been registered against him. Meaning thereby, his testimony is not trust worthy enough.”*

Learned counsel for the applicant, although, made sincere attempt, however, could not point out any substantive error or perversity in the judgment passed. The Court has further found that PW-9/Rajesh Kumar, Deputy Superintendent of Police, Head Quarter, Narnaul had conducted the investigation in a casual manner and his statement is sufficient to record a finding that the prosecution failed to prove its case beyond reasonable doubt. As per the testimonies of Doctors, there was no external mark of injury on the body of the victim.

In view thereof, no ground to grant leave to appeal is made out.

Dismissed.

**02.07.2019**

D.Bansal

**( ANIL KSHETARPAL )  
JUDGE**

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No