

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-A-1927-MA-2015  
Date of Decision: 07.11.2019

Bakshish Kaur

.....Applicant

Versus

Kewal Singh and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Amit Dhawan, Advocate, for the applicant.

**Harnaresh Singh Gill, J.**

The complainant (applicant herein) has filed the present application under Section 378(4) Cr.P.C. for grant of leave to appeal against the judgment dated 29.09.2015 passed by the learned Judicial Magistrate, Ist Class, Jalandhar, whereby while dismissing the complaint filed by the applicant, the respondents were acquitted of the charges framed against them.

In the complaint filed by the applicant under Sections 452, 323, 324, 480, 427, 506 IPC, containing the allegations against the respondents for trying to take forcible possession of the tenanted house wherein the applicant was stated to be living by causing her injuries, the respondents were summoned and thereafter, charges were framed against them under Sections 425, 380, 427 and 506 IPC. After framing of the charges, the complainant had sought time to conclude her evidence, but despite repeated opportunities, the witnesses were

not produced by the complainant for the purposes of cross-examination by the defence counsel. Thereafter, statements of accused under Sections 313 Cr.P.C. were recorded wherein they pleaded innocence and claimed false implication.

The learned trial Court after taking into consideration the evidence on record and rival contentions, came to the conclusion that the prosecution had failed to prove its case against the accused. It was found that the allegations of the trespass could not be proved for want of ownership of the tenanted house in possession of the applicant; that there was no proof regarding the accused having used the alleged weapons; that the alleged injuries suffered by the complainant were not proved by way of medical evidence, so much so, the complainant stated that she had not visited any Doctor in respect of the alleged injuries suffered by her; that the complainant failed to prove on record that she had moved any complaint before the police regarding the incident in question and that the most material witnesses of the occurrence were not examined by the complainant. It was thus, concluded as under:-

“..... Hence, the trustworthiness of the version of the complainant is definitely dented and benefit of any doubt in this respect has definitely to go to the accused. It is the basic canon of criminal jurisprudence that the prosecution is required to prove its case beyond shadow of reasonable doubt. Moreover, no evidence has been brought on record by the complainant in order to prove the offences under Section 427/506 IPC. So, in light of the detailed reasons hereinbefore stated, it is apparent that the prosecution has failed in that respect. Hence, being given benefit of doubt, all the accused, namely, Kewal Singh, Gurdev Kaur, Binder, Sarabjit Kaur and

Avtar Singh are acquitted of the offences under Sections 452/380/427/506 IPC, they have been charged with.....”

Learned counsel appearing for the applicant submits that the learned trial Court has committed patent illegality while passing the impugned judgment, inasmuch as, the evidence led by the applicant was not appreciated in the right perspective. It is further submitted that even if the applicant and her witnesses did not turn up for the cross-examination in the post charge evidence, it would be no ground to negate the evidence led by the applicant, on the basis of which the charges were framed.

After hearing the learned counsel for the applicant, I do not find any merit in the present application.

It is settled law that at the time of framing of the charges, the Court is to see whether any prima-facie case is made out or not against the accused. In the instant case, it has been recorded by the learned trial Court that the applicant and her witnesses chose not to appear for the purposes of cross-examination in the post charge evidence. It was under these circumstances that the impugned judgment of acquittal was passed by the learned trial Court after discussing in detail the evidence on record. The learned trial Court has discussed each and every evidence and on none of the counts, the allegations contained in the complaint could stand the ground.

It could not be pointed out that the learned trial Court has misread or misinterpreted the evidence while passing the impugned judgment. Still further, I do not find any

perversity or illegality in the impugned judgment, which may warrant interference by this Court in the present application.

In view of the above, the present application is dismissed. Leave to appeal is declined.

**(HARNARESH SINGH GILL)**  
**JUDGE**

07.11.2019  
ds

Whether Speaking/ Reasoned:  
Whether Reportable:

Yes/ No  
Yes/ No