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

**CRM-A-2726-MA-2017(O&M)
Date of Decision: 15.05.2019**

Satpal

...Appellant

Versus

Nityanand and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Mohit, Advocate for
Mr. R.A.Sheoran, Advocate
for the appellant.

MANOJ BAJAJ, J.(Oral)

CRM-40976-2017

This is an application for condoning the delay of 69 days in filing the appeal.

For the reasons mentioned in the application, the same is allowed.

The delay of 69 days in filing the appeal is condoned.

CRM stands disposed of.

CRM-A-2726-MA-2017(O & M)

Complainant-Satpal has filed the petition seeking leave to appeal against the judgment of the acquittal dated 05.08.2017, passed by the Judicial Magistrate Ist Class, Bhiwani, arising from a complaint case bearing No. 171-1 of 2013/2015 titled as Satpal Versus Nityanand and others under Sections 323, 379, 447 and 506 of the Indian Penal Code ('IPC' for short).

Briefly, the facts of the case are noticed below:-

Complainant-Satpal Singh had brought a criminal complaint against the accused persons, namely Nityanand, Krishand and Nafe Singh wherein it was

alleged that the complainant was in possession of agricultural land measuring 09 Kanal 09 Marlas situated in Village Nimriwali of which half of the share was given to his cousin brother Sandeep for cultivation. The allegations pertain to destroying the crop of mustard sown by his cousin Sandeep on 11/12.11.2012 by running tractor by the accused. The similar act was done repeatedly by the accused persons and a complaint was given to the police, however, the accused again destroyed the crop and the matter was reported to Tehsildar. On 20.04.2013, the accused persons had harvested the crops sown by the complainant and the fields were set on fire. It was further narrated that on 25.04.2013, when the accused were taking wheat from the fields of the complainant then upon arrival of Sandeep on the spot they had caused injuries to Sandeep which was intimated to the complainant by him on telephone. On these broad allegations, the complaint was filed.

After examination of pre-summoning evidence, the trial Court proceeded to summon the accused persons for the offences punishable under Sections 379, 323, 447 and 506 of the IPC. After recording pre-charge evidence, the accused persons were charged for those very offences to which the accused pleaded not guilty and claimed trial.

After framing of charges, the defence counsel expressed his willingness to cross-examine the prosecution witnesses once again and after completion of the exercise, the trial Court proceeded to record the explanation of accused under Section 313 Cr.P.C. wherein the entire incriminating material was denied, however, they tendered some documents in their defence.

After examination of the entire prosecution and defence evidence, the trial Court proceeded to acquit the accused.

Learned counsel for the petitioner has contended that the approach

adopted by the trial Court is erroneous in law as the prosecution has successfully discharged the onus by establishing the charges against the accused persons. According to him, the trial Court has picked up minor discrepancies while acquitting the accused, as the case of the complainant was fully supported by the testimony of witness-Sandeep and, therefore, there are valid reasons for interfering with the judgment of acquittal passed by the trial Courts.

It needs to be noticed here that the trial Court observed about the conduct of the complainant that he was habitual of filing complaints and the said findings are based on the report under Section 202 Cr.P.C. As per the said report, complainant-Satpal and accused Nityanand were having joint property and the civil litigation between them was pending.

Though the complaint is filed by Satpal but the eye-witness of the occurrence was Sandeep. However, no medical evidence was brought on record to substantiate the stand of the complainant particularly when the eyewitness Sandeep, who is brother of Nityanand and cousin of the complainant, has not supported his stand on material aspects of the case. The trial Court has carefully examined the prosecution evidence and proceeded to hold that there are material discrepancies in the testimony of Sandeep and the complaint was founded on hear-say material. A perusal of the impugned judgment reveals the view adopted by the trial Court is a possible view, founded on correct appreciation of the material on record.

In view of the above, no ground is made out for grant leave to appeal. The same is rejected.

15th May, 2019
shabha

(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned : *Yes/No*

Whether Reportable : *Yes/No*