

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

**CRM No.A-637-MA of 2017 (O&M)**

**Date of decision: April 09, 2019**

Sunita Rani

...Applicant

Versus

Lakhwinder Pal and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH**

Present: Mr.Arvind Kashyap, Advocate  
for the applicant.

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**INDERJIT SINGH, J.**

Applicant-Sunita Rani has filed this application under Section 378(4) Cr.P.C. seeking permission for leave to appeal against Lakhwinder Pal and other respondents, challenging the judgment dated 20.01.2017 passed by learned Judicial Magistrate Ist Class, Pathankot, whereby accused-respondents were acquitted.

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, therefore, prayed that leave to appeal be granted.

As per the record, complainant Sunita Rani filed a complaint against accused Lakhwinder Pal, Jatinder Pal and Harish under Sections 323, 324, 354, 307 and 34 IPC. The brief averments of the complaint as noted down in the judgment passed by learned JMJC, Pathankot, are as

*“2. Briefly, it has been stated that on dated 24.04.2010, at about 10.30 P.M., complainant saw that accused Lakhwinder Singh, his son Jatinder Pal and one Harish (i.e. accused named in this complaint) were giving beating to her husband, with their respective weapons i.e. accused Lakhwinder Singh was holding wooden log, accused Jatinder Pal was holding wooden stick and accused Harish was giving fist and kick blows to Balwinder Singh (i.e. husband of complainant). Complainant came forward to rescue her husband, on which, accused Lakhwinder Singh hold the complainant from her hairs and torn her wearing clothes. Accused no. 2 and 3 gave beating to the complainant with kick and fist blows, on various parts of her body. On this, in order to save herself, complainant rushed to the roof of house. Accused followed her uptill the roof and then, they threw the complainant from roof to the ground of house, in order to finish her life. However, with the grace of God, complainant was saved but, she suffered injuries on the various part of her body. The neighbors of complainant made her to shift from the place of occurrence to their own residence, in unconscious and injured condition. On the next day i.e. 25.04.2010, complainant was taken into Civil Hospital, Pathankot, wherein, her medical examination was conducted. Complaint was moved to SHO, Police Station Shahpurkandi but, no action has been taken by police and as such, this complaint has been filed on 04.09.2010, in the Court.”*

On the basis of preliminary evidence, the accused were summoned under Sections 323 and 34 IPC.

The complainant examined CW-1 Pawan Kumar, CW-2 Balwinder Pal, CW-4 Dr.Sandeep Chalotra, who proved MLR and also examined herself as CW-4.

At the close of complainant evidence, the accused were examined under Section 313 Cr.P.C. They were confronted with the evidence of the complainant and they denied all the incriminating evidence against them and pleaded their false implication.

Learned JMIC, Pathankot, after appreciating the evidence, acquitted the accused-respondents vide impugned judgment dated

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

Lower Court record was requisitioned.

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

The perusal of the findings given by learned Magistrate shows that these have been given as per evidence and law. In no way, the findings can be held as perverse or against the evidence and law. 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 learned Court below. The findings have been given by correctly appreciating the evidence in right perspective.

Further, from the record, I find that in the present case, occurrence is stated to have taken place on 24.04.2010 whereas the complaint has been filed on 14.09.2010 i.e. after a long delay, which remained unexplained. It is settled law that delay itself is not fatal to the complainant's case but in the case of delay, the Court is to appreciate the evidence cautiously and carefully. In the present case, as per complainant's version, her husband was given beatings by the accused but there is no evidence that husband of the complainant was medico legally examined, which means that version of the complainant regarding causing injuries to her husband, is not supported and corroborated by medical evidence. Moreover, as per complainant's version, she was thrown from the roof to the

i.e. complaint of pain and one simple injury i.e. abrasion. If the complainant would have been thrown from the roof, then she would not have received such type of injuries.

The defence of the accused is that complainant along with her husband and neighbour Pawan Kumar and his wife, attacked on Diwan Chand, father of accused Lakhwinder Pal and injured him on 24.04.2010. Later on, in order to save themselves, this complaint has been filed against the present accused. In defence, photocopy of MLR of Diwan Chand, conducted on 25.04.2014 has also been placed on record.

Keeping in view the evidence on record, I find that a reasonable doubt exists in the complainant's version and learned Magistrate has rightly acquitted the accused-respondents.

In view of the above discussion, I find that the impugned judgment dated 20.01.2017 passed by learned JMIC, Pathankot, is correct, as per law and evidence and 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.

**April 09, 2019**  
Vgulati

**(INDERJIT SINGH)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**No**