

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-683-MA of 2015 (O&M)

DATE OF DECISION: SEPTEMBER 12, 2019

SEWA RAM

...APPLICANT

VERSUS

NEELAM RANI & OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. NITIN JAIN, ADVOCATE FOR THE APPLICANT.

MR. RAGHUBIR TEJPAL, ADVOCATE FOR THE RESPONDENTS.

MANOJ BAJAJ, J.(ORAL)

This application has been filed by the applicant-complainant under Section 378(4) of Cr.P.C. praying for leave to appeal against the judgement dated 7.2.2015 passed by the Judicial Magistrate Ist Class, Karnal vide which the complaint filed by him under Sections 323, 324, 325, 379, 452, 506 IPC was dismissed and the respondents were acquitted.

Briefly the facts of case are that the complainant alleged in his complaint that he was living at his residence for the past 40 years alongwith his mother and other family members. Accused Banarsi had an evil eye on the said house and wanted to dispossess them with an intention to grab the same and with the said intention, he hatched a criminal conspiracy with accused Neelam Rani, MC, who boasted that she will create such an atmosphere that the complainant will have to leave the residence. It was further alleged that on 8.4.2005 at about 11.00 a.m., accused Banarsi, Rajinder, Om Parkash, Geeta Ram, Neelam Rani and Sant Ram reached the

house of the complainant with deadly weapons on motorcycles. They forcibly entered into his house and asked him to vacate the same immediately. When the complainant and his family members opposed the same, the accused started misbehaving and threatening them. When the complainant and his brother Shree Ram tried to resist, accused Rajinder gave a knife blow on his left leg. When brother of the accused tried to save the complainant, accused Geeta Ram attacked him with a knife and accused Neelam Rani gave a danda blow on his back. Accused Om Parkash hit the complainant with a danda. Thereafter, Neelam Ram hit Lajwanti, mother of the complainant with a danda. It has been further alleged that Shree Ram brother of the complainant fell down and became unconscious. The accused considering Shree Ram to have died fled away from the spot while issuing threats that the house be vacated or else the complainant and his family would be put to death. The said incident was reported to the police and the complainant and his family members were medically examined. It was further alleged that thereafter, on 9.4.2005 at about 6.00 p.m., accused Geeta Ram, Sikender, Sant Ram, Neelam Rani and Kali Ram came to his house and caused injuries to the complainant and his family members and also destroyed the household articles and took away jewellery, clothes, cash, etc. As no action was taken by the police, therefore, this complaint was filed.

The accused were summoned to face trial for the offences under Section 323, 324, 325, 379 and 506 IPC. During the trial, accused Banarsi Dass and Sikander expired and the proceedings qua them were dropped.

The trial Court observed that the prosecution has failed to prove

its case beyond reasonable doubt and therefore, acquitted all the accused by giving them the benefit of doubt.

It is against this judgement, the complainant has come forward with the present application impugning the same.

Learned counsel for the applicant contends that the trial Court has wrongly acquitted the accused on the ground that the complaint was lodged after a delay of 42 days. According to him, the Court has wrongly proceeded to hold that the occurrence took place on 8/9.4.2005 and the complaint was filed on 20.5.2005. He submits that complaints were given to Police which were not attended to and therefore, the present complaint was filed on 20.5.2005.

On the other hand, learned counsel for the respondents has argued that the judgement of acquittal passed by the Court below is well reasoned and it has taken into account all the relevant material and evidence on record. He submits that one of the accused alongwith Geeta Ram was not even present on the spot being a Government employee and this fact is proved through the official record produced as Ex.DW2/B.

After hearing the learned counsel for the parties, this Court finds that the learned trial Court has carefully examined the entire evidence on record while acquitting the accused persons. The trial Court has noticed the discrepancies in the prosecution witnesses particularly a reference was made to the medical evidence. The relevant portion of which is as follows:-

“It is relevant to mention here that the knife is the sharp weapon in nature and none of the doctor has shown that nature

of injuries suffered by Sewa Ram or his brother Shree Ram was inflicted by sharp edged weapon. So, from medical evidence on record the version of the complainant has not been proved in any manner and it is not proved as to how the injuries were suffered by the complainant or his brother and as to how any of the accused was involved in causing injuries to the complainant or his brother. It is further submitted that CW3 Dr. Rajni Kant has stated in his cross-examination that the injuries suffered by Sewa Ram and Bhagwanti may be caused by falling on a hard surface or by friendly hands. Further, CW1 Dr. Krishan Kant who medically examined Sewa Ram had stated in his examination-in-chief that all the three injuries by the complainant Sewa Ram were of simple kind and the weapon used for all injuries were blunt and probation of duration of injuries was within six hours whereas complainant has specifically stated in his examination-in-chief that injuries suffered by him on his right leg was inflicted with the knife and the blood started oozing out of his leg. This material contradiction with regard to the version of the complainant and the injury suffered by the complainant as well as his brother Siri Ram creates severe doubt in the mind of this Court about the complainant version.

Besides, it is specially observed by the trial Court that accused

No.6 Geeta Ram being a Government employee was on duty in his office at

Chandigarh and this fact was proved by the officials of the office of Legal Remembrancer, Haryana by producing the Attendance Register (Ex.DW2/B). It is apparent that all the material aspects of the prosecution are surrounded by serious doubts and therefore, this Court finds that the view adopted by the trial Court is a possible view. Resultantly, this Court does not find any reason to interfere with the well reasoned judgement passed by the trial Court.

Leave to appeal is declined.

September 12, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No