

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

CRM A-2218-2019 (O&M)
Date of Decision:-10.12.2019

Kirandeep Kaur	vs.	... Appellant
State of Punjab and others		Respondents

**Coram: Hon'ble Mr. Justice Jitendra Chauhan
 Hon'ble Mrs. Justice Archana Puri**

Present:- Mr. Arnav Sood, Advocate
 for the applicant-appellant.

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Jitendra Chauhan,J.(Oral)

This is an application under Section 378(4) of Code of Criminal Procedure for grant of leave to appeal against the judgment of acquittal dated 04.07.2018 passed by learned Additional Sessions Judge, Bathinda vide which accused/respondent Nos. 2 to 7 were acquitted in complaint case titled as Kirandeep Kaur vs. Surjit Singh @ Seeta @ Jaswinder Singh and others filed under Sections 455, 436, 354, 323 and 506 read with Section 149 IPC.

The brief facts of the case as noticed in the impugned judgment passed by the learned trial Court in paragraph No. 1, are reproduced as under:-

“1. In brief, the allegations made by the complainant are that since July 2012, complainant along with her husband Shavinder Singh and daughter Beant Kaur was residing in their residential house at village Dialpura Mirza. On 11.10.2012, when the complainant and her daughter were present in their residential house and her husband had gone out for some work, then accused assembled and started wandering around their above said house. On this, the

complainant locked the doors of the house from inside. At about 3 p.m., accused No. 1 to 6 while armed with deadly weapons tried to open the door of the house of complainant. When complainant and her daughter did not open the door, accused forcibly entered the house by scaling the boundary wall. At that time, Surjit Singh @ Seeta was armed with .12 Bore DBBL Gun, Yadwinder Singh, Baldev Singh and Khus Singh were armed with Gandasas, Jassi Singh and Sadha Singh were armed with Kasias. The accused persons hurled abuses and blurted out to take possession of the house. Surjit Singh @ Seeta aimed his gun at complainant shouting as to “where is the Shavinder, today they will eliminate them and occupy the house.” Accused Jassi Singh, Baldev Singh and Yadwinder Singh broke opened the locks of the doors with their respective weapons. They also broke opened the locks of the rooms and threw out domestic articles. Complainant tried to stop them from doing so, but, accused Yadwinder Singh caught hold of her from her neck and wrapped her Dupatta around 15 her neck with an intention to kill her. Accused Baldev Singh, Khus Singh, Sadha Singh and Jassi Singh scuffled with complainant and opened attack on her, due to which, she fell down and was given blow in her abdomen with butt of gun by Surjit Singh. Accused Baldev Singh, Khus Singh, Sadha Singh and Jassi Singh gave kick blows on her legs and thighs and tore away her clothes, making her semi-nude in public view and thereby outraging her modesty. It is further stated that on this the complainant and her daughter raised hue and cry. The accused persons took the valuables like Television, Refrigerator, Cots, quilts, beddings and utensils forcibly and during all this time, Surjit Singh kept his gun aiming at the complainant and her daughter, threatening them to kill the entire family. Accused then spread straw fodder in the house and set it on fire. On

raising alarm by complainant and her daughter, people gathered and the accused fled away with their respective weapons. Thereafter, Beant Kaur, daughter of complainant took care of her and extinguished the fire. Complainant and her daughter informed Shavinder Singh, who reached at the spot and thereafter, the matter was brought to the notice of MHC of police station Dialpura, but, he suggested to take medical assistance from Civil Hospital, while assuring to initiate appropriate action against the accused. The complainant was got admitted at Civil Hospital, Bathinda by her husband vide admission No. 10221 dated 11.10.2012, where she was medico-legally examined vide MLR No.GSA/OCT/12/88 dated 11.10.2012 and remained admitted there till 14th October 2012. X-ray examination was conducted upon her. The accused being influential persons managed to connive with accused No. 7 ASI Davinder Singh and the local police did not take any action against the accused persons. After being discharged from hospital, complainant and her husband visited the police station on a number of occasions, so as to initiate legal action against the accused, but all in vain. Thereafter, she moved application to SSP, Bathinda and Punjab State Human Rights Commission, Chandigarh. Hence, the present complaint.

After preliminary evidence, the accused/respondent Nos.2 to 7 were summoned to face trial under Sections 455, 436, 354, 323 and 506 read with Section 149 IPC. Charges were also framed thereunder to which the accused pleaded not guilty and claimed trial.

In order to prove its case, the complainant had examined herself as PW-1, Beant Kaur as PW-2, Dr. Gurmail Singh as PW-3, HC Lakhvir Singh as PW-4, Shavinder Singh as PW-5 and Dr. Vijay Mittal as

PW-6 and closed its evidence.

The statements of the accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing in the prosecution evidence were put to the accused, to which they denied and pleaded false implication.

No evidence in defence was led by the accused.

After appraisal of the evidence, the learned trial Court vide impugned judgment dated 04.07.2018 acquitted the accused/ respondent Nos. 2 to 7 of the charges, framed against her.

Thus, the present appeal has been filed by the complainant.

It is contended by the learned counsel for the complainant/appellant that the learned trial Court has fallen in error in acquitting the respondent Nos. 2 to 7/accused inasmuch as there was sufficient evidence on record to convict the accused.

We have heard the learned counsel for the appellant and have gone through the case file carefully.

The learned trial Court has acquitted the accused/respondent Nos. 2 to 7 on the following grounds:-

“(a) Though the accused were armed with gun, gandasas, *Kasis* but the complainant suffered simple injury of pain.

(b) There were contradictions in the statements of the complainant, her daughter and her husband. The complainant had stated that she was resident of Talwandi Sabo and after 11.10.2012 they never stayed in the disputed house. PW5 Shavinder Singh stated that in 2012, he was residing in village Dialpura Mirza along with his wife and daughter. Occasionally, he used to visit and reside at Talwandi Sabo while his wife and daughter used to reside at Dialpura Mirza. There was a confusion with regard to the residence of the complainant on the date of alleged occurrence.

(c) As per the complainant, the accused had taken fridge, television, beddings, utensils, cots etc. from the house forcibly

at the time of occurrence and then they stated that thereafter the complainant was beaten. Accused spread the straw fodder in the house and set it on fire. On raising hue and cry by complainant and her daughter, people gathered there and 15 accused went away with their respective weapons. This statement was found to be not probable as there was a huge gathering of people.

(d) The complainant did not produce any document of ownership of the house in question.

(e) None of the people, who gathered on the spot came to the rescue of the complainant.

(f) The Gram Panchayat of the village had passed a resolution (Ex. DW1/D) noticing that Shavinder Singh husband of the complainant had held no property in the village. He was a liar and a fake person.

(g) Civil litigations were pending between the parties, which raised a very high probability that the accused have been falsely implicated.”

Moreover, there is an inordinate and huge delay of 368 days in filing the present application. No satisfactory explanation and sufficient cause have been given by the learned counsel for the appellant for condoning the delay.

We have gone through the case file carefully and find that the judgment of acquittal has been rightly passed. As per the complainant, after the incident a number of persons had gathered on the spot. But, it does not stand to logic as to how the gathering of persons had allowed the accused to take away freeze, television, beddings, utensils cots etc. Further there is contradiction between the complainant, her daughter and her husband with regard to the place of residence. The complainant had not proved her ownership over the disputed house. A civil litigation is pending between the parties, therefore, possibility of false implication cannot be ruled out. There is no reason to differ from the view taken by the learned trial Court. The judgment of acquittal does not suffer from any perversity or illegality calling for interference by this Court, therefore, the present application for

leave to appeal is declined.

Thus, the present application for condonation of delay is also dismissed.

(JITENDRA CHAUHAN)
JUDGE

(ARCHANA PURI)
JUDGE

10.12.2019
manoj

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No