

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

CRM-A-772-MA-2013(O&M)

Date of decision:-5.3.2020

Tarsem Singh

...Applicant

Versus

Ruldu Singh and others

...Respondents

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Munish Garg, Advocate
for the applicant.

Mr.P.S. Dhaliwal, Advocate
for respondents No.1 to 5.

H.S. MADAAN, J.

Applicant – Tarsem Singh has filed this application under Section 378(4) Cr.P.C. seeking special leave to appeal.

Briefly stated, facts of the case are that complainant – Tarsem Singh had filed a complaint under Sections 458, 295-A, 323, 506, 148 and 149 IPC against accused Ruldu Singh, Rupinder Singh, Darshan Singh, Jaswinder Singh, Lakhwinder Singh and Sukhwinder Singh.

As per the case of the complainant, he is owner to the extent of 3693/91344 share in the land measuring 273 bighas 2 biswas, which came to approximately 11 bighas, in that way, he is joint owner in possession of the land with the accused; the accused for the last some time used to take the produce of the crop standing in the land of the

complainant without making any payment to the complainant despite specific demand raised by the complainant in that regard, rather the accused threatened the complainant that in case he demanded any money from them, he would face dire consequences; the complainant had moved an application for partition of the joint land on 2.6.2004 before Assistant Collector Ist Grade, Barnala; the accused threatened the complainant to withdraw the said application but the complainant did not do so; that in order to pressurize the complainant, the accused had filed five cases against him, even then the complainant did not budge; on 14.8.2006 at about 9:00 p.m., all the accused in connivance with each other came to the residential house of the complainant and started shouting; when the complainant opened the door and inquired from the accused as to why they were shouting, then accused Ruldu Singh pushed the complainant inside the house, whereas remaining accused entered the said house; then Ruldu Singh and Darshan Singh exhorted their co-accused to teach a lesson to the complainant for filing an application for partition; thereafter, all the accused started slapping and giving blows to the complainant and removed his turban also; Manjit Kaur – wife, Gurdeep Singh – son and Sukhjot Kaur – daughter of the complainant raised an alarm calling for help; all the accused threatened the complainant that in case he did not withdraw the application for partition, then they would teach him a lesson and further if he disclosed the incident to anybody, then he would be eliminated; out of that fear the complainant did not venture out of his house on the said night and on 15.8.2006, he got typed a written complaint regarding the incident addressing it to SSP, Barnala and since SSP, Barnala did not meet the

complainant, the complainant got the said written complaint faxed to his office; however, under influence of the accused, who are influential persons, no action was taken in the matter; on 2.9.2006 even officials of the Police Station Dhanoula started pressurizing the complainant and had obtained his signatures on some blank papers; on 4.9.2006, the complainant had moved an application to higher officers against the accused but no action was taken; the complainant had filed CRM-M-57787 of 2006 under Section 482 Cr.P.C. in the High Court wherein an order dated 25.5.2007 was passed and the complainant was granted liberty to file a complaint, therefore the complainant withdrew the petition from the High Court and again approached the police officials but no action was taken. Thereafter, the complainant had brought the complaint in question.

After recording of preliminary evidence, accused were summoned to face trial for the offences under Sections 323, 458, 506, 148 and 149 IPC. During the trial, accused Lakhwinder Singh failed to put in appearance and was declared a proclaimed offender.

The complainant led pre-charge evidence. Then finding sufficient material, learned trial Magistrate framed formal charge for the offences under Sections 323, 458, 506, 148, 149 IPC against the accused, to which, they pleaded not guilty and claimed trial.

After framing of charge, the accused opted to further cross-examine CW4 Tarsem Singh and his son CW5 Gurdeep Singh. It was so done accordingly.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against

such accused were put to them but they denied the allegations contending that they are innocent and they have been falsely implicated in the case.

In defence evidence, accused examined DW1 HC Gurjit Singh, DW2 Gurbinder Singh and DW3 Jagroop Singh.

With that the defence evidence stood closed.

The trial Court had formulated the following points for determination:

1. Whether from the entire version of complainant as well as evidence, any offence is made out against the accused or not?
2. Whether delay in filing the present complaint is fatal to the case of complainant or not?

After hearing arguments, learned trial Magistrate decided both the points against the complainant and in favour of accused, resultantly dismissed the complaint and acquitted the accused of the charges framed against them vide judgment dated 17.7.2013, which left the complainant aggrieved and he had knocked at the door of this Court by moving an application under Section 378 (4) Cr.P.C. for grant of special leave to appeal against the judgment of acquittal.

Notice of the application was issued to the respondents, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The main reasons for acquittal of the accused are as follows:

- (i) As concluded by the village Gram Panchayat on 14.8.2006, the complainant Tarsem Singh was in drunken condition in his house and was abusing his neighbours Ruldu Singh and others and in retaliation Ruldu Singh also abused the complainant.
- (ii) As per the report of ASI Kuldeep Singh, no such occurrence had taken place and all the allegations levelled by Tarsem Singh are false.
- (iii) The evidence is lacking that accused persons had entered the house of the complainant after having made preparation to cause hurt to him.
- (iv) It is not established on record that any occurrence as alleged by the complainant has taken place on 14.8.2006.
- (v) There is unexplained delay of three months in filing of the complaint.

I find that no special leave to appeal deserves to be granted in this case. I do not find any illegality and irregularity in the judgment passed by the trial Court. Rather it is based upon proper appraisal and appreciation of evidence and correct interpretation of law.

Therefore, no ground is made out to grant special leave to appeal in this case. The application is, therefore dismissed accordingly.

5.3.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No