

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-2557-MA of 2018(O&M)

DATE OF DECISION: JANUARY 13, 2020

ASHOK KUMAR

...APPLICANT

VERSUS

SARDARA SINGH & OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. S.S. RATHORE, ADVOCATE FOR THE APPLICANT.

MANOJ BAJAJ, J.(ORAL)

Applicant-complainant Ashok Kumar has sought for grant of Special Leave to Appeal under Section 378(4) of Cr.P.C. against the order of acquittal dated 18.7.2018, passed by the Judicial Magistrate 1st Class, Dera Bassi in a complaint case under Sections 427, 447, 506, 148 read with Section 149 IPC.

As per the complainant, he was in possession of 150 sq. yards of land in village Dappar vide Resolution No.6 of Gram Panchayat, Dappar and was using the same for his personal use, i.e. tethering cattle, preparing dung cakes, dung hills and placing ruri etc. It was further stated that as the accused had an evil eye on the said land, therefore, the complainant alongwith his elder brother filed a civil suit against all the accused persons seeking a decree of permanent injunction. It was further stated that the complainant and his other family members raised a boundary wall on the northern and western sides of the land. On the intervening night of 24/25.4.2010, the accused armed with deadly weapons entered illegally and

unlawfully into the said piece of land and caused destruction to the boundary wall as well as other valuable articles and threatened the complainant and his family members of dire consequences. On 25.4.2010, the matter was reported to Police, but no action was taken by them. Hence, the present complaint was filed.

The trial Court after appreciating the preliminary evidence adduced by the complainant, summoned the accused persons and charged them for the offence punishable under Sections 427, 447, 506, 148 read with Section 149 IPC, to which they accused pleaded not guilty and claimed trial.

Statements of the accused under Section 313 Cr.P.C. were recorded wherein they denied all the charges and pleaded innocence. The accused examined 3 witnesses in their defence.

The trial Court finding material contradictions in the testimony of the complainant proceeded to acquit the accused of the charges levelled against them.

Hence the present application.

Heard learned counsel for the applicant and perused the case file carefully.

This Court finds that the trial Court has carefully examined the evidence on record while acquitting the accused persons. Most importantly, the evidence of the complainant itself renders the alleged occurrence seriously doubtful as noticed by the trial Court while examining the statement of complainant Ashok Kumar recorded in civil suit on 9.7.2014 after the alleged occurrence. The said statement (Ex.DA) coupled with the

statements of the other witnesses do not establish forcible dispossession of the complainant. This Court finds that the trial Court has adopted a possible view based on correct appreciation of evidence on record and therefore, it does not warrant interference.

In view of the above, Special Leave to file an appeal is declined.

January 13, 2020
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No