

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

CRM-A-1212-MA-2015 (O&M)

Date of decision-24.01.2020

Nazar Singh

...Applicant

Vs.

Harjit Singh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ramesh Sharma, Advocate for the applicant.

Mr. B.S.Bajwa, Advocate for the respondents.

MANOJ BAJAJ, J.

Nazar Singh-applicant is aggrieved against the order dated 23.12.2014 passed by learned Judicial Magistrate First Class, Batala whereby the Court has proceeded to acquit the accused in complaint No.219 of 2007 brought by him under Sections 447, 427, 506, 511 and 148 read with Section 149 of Indian Penal Code, registered at Police Station Ghoman, District Gurdaspur.

The complainant had alleged that he applied for demarcation of the land measuring 3 kanal 16 marla khasra No.28/21/1/2 and 28/21/1/1 situated at village Madhra to Deputy Commissioner and the same was entrusted to Sub Divisional Magistrate, Batala who further directed Tehsildar Batala to complete the exercise. After demarcation a report dated 30.03.2007 was submitted. On 05.04.2007, at about 1.00 p.m., accused persons armed with kirpan, barshi, shavi and sword came there and raised

lalkara and further uprooted the boundary walls, ploughed the land by trespassing the demarcated land of the complainant. On these broad allegations, the complaint was brought. After examining the pre-summoning evidence, the trial Court summoned the accused for the offence punishable under Sections 427, 447, 506 and 148 read with Section 149 IPC and subsequently, the charges were framed. After completion of the trial, the trial Court proceeded to acquit the accused vide its judgment dated 23.12.2014.

Aggrieved against the judgment of acquittal, an appeal was preferred before the Additional Sessions Court, Gurdaspur which was dismissed as not maintainable vide impugned judgment dated 28.05.2015.

Learned counsel for the complainant has contended that the evidence adduced by the complainant (i.e. jamabandi) was sufficient to bring home the guilt of the accused persons and both the Courts below erroneously proceeded to acquit them.

On the other hand, the prayer is opposed by learned counsel appearing on behalf of the respondents.

Learned counsel for the parties have been heard and with their assistance I have gone through the case file carefully.

A perusal of the impugned judgment reveals that the trial Court has carefully analyzed the evidence on record and has specifically noticed that there was litigation between the parties before the Civil Court as well as the Revenue Courts. The decisions delivered in those proceedings were in favour of the accused. It has been noticed that the plaintiff (complainant) had

prayed for grant of mesne profits before the Civil Court, and it was decided through judgment and decree dated 22.05.2013 (Exhibit D-5). As per the plaintiff (complainant) himself, the suit land was being cultivated by the defendants since 2001, therefore, taking into account all these material facts, it was rightly observed that the possession of the accused was admitted by the complainant and resultantly, trial Court proceeded to acquit them for the offences punishable under Sections 447, 427, 506, 511 and 148 read with Section 149 IPC.

This Court finds that the view adopted by the trial Court is a possible view which is based on correct appreciation of evidence on record, and therefore, this Court does not find any reason to interfere with the impugned judgment.

The application for grant of leave to appeal is dismissed.

(MANOJ BAJAJ)
JUDGE

24.01.2020

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