

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

CRM-A-1457-MA-2014(O&M)

Date of decision:-2.3.2020

Navraj Singh

...Applicant

Versus

Madan Lal and others

...Respondents

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

Present : Mr.K.S. Mamrat, Advocate as Legal Aid Counsel
for the applicant.

Mr.Sandeep Bansal, Advocate
for respondents No.3 to 6

H.S. MADAAN, J.

Applicant – Navraj 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 –
Kulwant Singh (dead) through his legal heir Navraj Singh had brought a
criminal complaint under Sections 452, 427, 380, 411, 506, 148, 149,
457 and 120-B IPC against accused Ved Parkash (dead), Madan Lal,
Hari Krishan, Onkar Nath, Kiran Kumar Saggi, Monika Saggi,
Dr.Rattan Singh Hanky and Rajinder Kaur on the allegations that Navraj
Singh son of complainant had taken a shop on rent in the premises of
Chakrwardi Building, Railway Road, Nangal in the year 1977 where he
had been running mechanical workshop in the name and style of M/s
Malwa Construction Co. vide agreement dated 30.9.1980. After death of

landlord Sh.Chakarwarti, his nephews namely Ved Parkash, Hari Krishan and Onkar Nath started interfering in the possession of Navraj Singh over the shop in question so as to make effort to take possession of shop from Navraj Singh. Therefore, Navraj Singh filed a suit for grant of permanent injunction against them before Civil Court at Anandpur Sahib where ad interim injunction was granted in their favour vide order dated 9.2.2001. However, on the intervening night of 30/31.8.2001, Ved Parkash, Madan Lal, Hari Krishan, Onkar Nath in connivance with Dr.Rattan Singh, Rajinder Kaur, Kiran Kumar, Monika broke open the locks of the shop and stole the entire goods lying in the shop and damaged side wall and roof of the shop and forcibly took its possession. On the next morning, i.e. 31.8.2001, the complainant along with Karamjit Singh Sidhu, an other respectable of the locality approached SHO of concerned police station, moving an application in that regard. The complainant had approached the High Court also. However, vide order dated 6.5.2002, he was directed to approach the concerned Magistrate for registration of the case against the accused. As such complaint was filed.

After recording of preliminary evidence, accused were summoned, who put in appearance and were admitted to bail. Pre charge evidence was recorded. Finding a prima facie case, charge for the offences under Sections 452, 380, 506, 148, 149 IPC was framed against the accused, to which they pleaded not guilty and claimed trial. The trial had proceeded. Statements of accused were recorded under Section 313 Cr.P.C.. Accused were afforded opportunity to lead evidence in their defence.

After hearing arguments, learned Chief Judicial Magistrate, Ropar vide judgment dated 16.1.2014 dismissed the complaint mainly for the following reasons:

- (i) During his cross-examination, the complainant had admitted that civil suit was filed by him titled 'Navraj Singh Versus Ved Parkash', which was decided against him vide judgment dated 7.12.2009 and the complainant had not filed any appeal etc. against the judgment and decree passed by the Civil Court.
- (ii) The Civil Court had observed that the plaintiff is no more in possession over the shop in question at any point of time. The plaintiff had admitted the possession of the defendant over the shop in question, therefore he was not entitled for relief of permanent injunction so sought by him in the suit.

Such judgment 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. Along with that, an application under Section 5 of the Limitation Act for condonation of 103 days delay in filing of the application was also filed, which was allowed.

Notice of the application under Section 378 (4) Cr.P.C. was ordered to be given to respondent – accused.

I have heard learned counsel for the applicant and I find that no ground is there to grant special leave to appeal.

Learned trial Magistrate has referred extensively to the evidence on the file with regard to admissions by complainant and his

witnesses to the effect that the complainant was not in possession of the property in question. It being so, the complainant could not succeed in the complaint.

I do not find any illegality and irregularity in the judgment passed by the learned 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.

2.3.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No