

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

**CRM-A-1466-MA-2015
Date of decision: - 12.02.2020**

Satish

.... Applicant

Vs.

Anil Kumar and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Virender Singh Punia, Advocate for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

CRM-28223 of 2015

This is an application under Section 5 of Limitation Act, 1963 for condonation of delay of 70 days in filing the application under Section 378(4) of Cr.P.C. with a prayer for granting leave to appeal against the judgment of the acquittal.

For the reasons mentioned in the application, the same is allowed.

Delay of 70 days is condoned.

CRM-A-1466-MA of 2015

Special leave to appeal has been sought against the judgment of acquittal passed by learned Judicial Magistrate 1st Class, Hisar on 26.03.2015, vide which complaint under Sections 307, 323, 324, 147, 148 and 149 IPC registered at Police Station Sadar, Hisar, has been dismissed.

As per the impugned judgment dated 26.03.2015, respondents

No.1 to 5 have been acquitted of the charges. The Ld. Magistrate has recorded the following reasons for dismissing the complaint:-

1. The complaint in his evidence submitted that OM Prakash, Udey Singh and Zile Singh reached the spot on hearing his noise. *But complainant failed to examine said eye witnesses to corroborate his testimony.*
2. *As per MLR of Ajit (son of complainant) Ex. PW1/C nowhere revealed that any serious injuries were suffered by him. As per doctor, both the injuries were declared as simple.*
3. *As per MLR of Mange Ram (father of the complainant) EX PW1/D revealed that no serious injuries as alleged by the complainant has been suffered by him than the serious injuries suffered by accused persons namely Sandeep Singh and Sunil. This fact also proved that the injuries as shown by complainant party must have been either suffered in their self defence.*
4. *The complainant party who were more in number than the accused persons in their complaint and they were the aggressor, as it has been duly proved in case State vs. Satish etc. the accused person caused injuries to Mange Ram & Ajit in their self defence, accused parties suffered serious injuries than the complainant party.*

As per the conclusion drawn by Ld. Magistrate complainant has failed to prove that any serious injury caused to Ajit and Mange Ram (son and father of the complainant) and it has been proved by the MLR's of the accused persons that they have suffered serious injuries than the complainant party in their self defence, moreover it has also been proved that the complainant party were more in number than the accused persons in this complaint and they were the aggressors. Therefore, the complainant has

failed to prove any allegation against the accused.

Thus, in view of the totality of the circumstances and the settled position of law, the case attempted to be built by the complainant, appears to be suffering from fatal infirmities so much so that it goes directly to the root of the case and shakes the very edifice on which the case of the complainant rests. It is also relevant to mention here that the criminal conviction entails enigmatic and stigmatic exposures and experiences and thus it becomes of paramount importance to demand evidence of unimpeachable character and of unambiguous nature.

Therefore, considering the above mentioned facts and legal positions, it would not be unjustified and completely misplaced to say that the complainant has miserably failed to prove his case. Preponderance of probabilities lies completely in favour of the accused. Further, the case of the complainant is required to rest on his own leg and the same cannot be allowed to be bypassed in a casual and cosmetic manner.

Learned counsel for the applicant, although, made sincere attempt, yet failed to draw the attention of this Court to any substantive error or perversity. Still further, the reasons which have been extracted above, appear to be probable and plausible.

From the above, I do not find any ground to grant special leave to file appeal. Therefore, finding no merit in the present application, the same is dismissed.

(HARNARESH SINGH GILL)
JUDGE

12.02.2020
Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No