

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-A-473-MA-2017

Date of Decision: 20.01.2020

Sahab Singh

.....Applicant

Versus

Gurwant Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Bhavyadeep Walia, Advocate, for the applicant.

Harnaresh Singh Gill, J.

The complainant (applicant herein) has filed the present application under Section 378(4) Cr.P.C. for grant of special leave to appeal against the judgment dated 03.09.2016 passed by the learned Judicial Magistrate, Ist Class, Kaithal, whereby the complaint filed by the applicant under Sections 323, 452, 354, 506/34 IPC was dismissed and the respondents were acquitted of the charges framed against them.

In the aforesaid complaint, the respondents were charged for the offences under Sections 323, 452, 506 read with Section 34 IPC on the allegations of having intruded the house of the complainant and causing him injuries with *lathis* (stick) and iron rod.

The learned trial Court after considering the evidence led by the parties found that there were material contradictions in the story put forth by the complainant, especially so when it related to the time and place of the occurrence as also the time

regarding conduct of the MLR. It was further found that the time of registration of FIR was also doubtful inasmuch as CW2-Niranjan deposed that the incident had taken place on 09.08.2012 whereas incident took place on 10.08.2012. It was further found that though CW3-Navjot Kaur deposed in her testimony that when the incident had taken place, there had been many people gathered there, whereas as a matter of fact, no person from the public had been examined by the complainant. Thus, the learned trial Court acquitted the accused of the charges framed against them holding that the prosecution had failed to prove its case beyond the shadow of reasonable doubt.

Learned counsel for the applicant has argued that the complainant led positive evidence on record to prove his case and once it stood proved on record that the respondents had caused injuries on the person of the complainant by causing trespass in his (complainant's) house, there was no occasion for granting the respondents benefit of doubt resulting into their acquittal. It is further argued that while doing so, the learned trial Court has totally misread and misinterpreted the evidence on record.

I have heard the learned counsel for the applicant and with his able assistance have gone through the record of the case.

It is settled principle of law that where there are material contradictions with regard to the manner, time and place of the occurrence, the benefit of doubt is to be given to the

accused. In the instant case, the learned trial Court has rightly recorded that there had been material contradictions with regard to the time and place of the occurrence. From the testimony of CW2, it was found that the said witness had deposed that the incident had taken place on 09.08.2012 whereas incident took place on 10.08.2012. From the testimony of CW3-Navjot Kaur, it was further found that the said witness had deposed in her testimony that when the incident had taken place, there had been many people gathered there, whereas as a matter of fact, no person from the public had been examined by the complainant. Thus, the findings recorded by the learned trial Court are based on the evidence on record. It could not be pointed out that the impugned judgment suffers from any misreading or misinterpretation of evidence.

In view of the above, I do not find any merit in the present application seeking special leave to appeal. Hence, the same is dismissed. Leave to appeal is declined.

(HARNARESH SINGH GILL)
JUDGE

20.01.2020
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No