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

**CRM-41147-2016 IN/AND
CRM-A-2410- MA-2016 (O&M)
Date of decision: 14.11.2022**

Baljinder Singh

....Applicant

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. K.S. Kahlon, Advocate
for the applicant.

Mr. Shubham Kaushik, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

CRM-41147-2016

Prayer in this application is for condoning delay of 310 days in filing the appeal.

Heard.

In view of averments made in the application, the same is allowed and delay of 310 days in filing the appeal stands condoned.

CRM-A-2410-MA-2016 (O&M)

Challenge in this appeal is to the judgment dated 15.10.2022 passed by the trial Court vide which the accused were acquitted of the charges framed under Sections 447, 379 IPC as well as the judgment dated 01.10.2015 passed by the Lower Appellate Court, vide which the appeal filed by State of Punjab preferred against the judgment dated 15.10.2022, was dismissed.

Brief facts of the case are that on a complaint given by Balwant Singh, father of the applicant, the FIR was registered with the allegation that he is co-owner in possession of the land measuring 8 Kanal and 10 Marlas as detailed in the FIR and there is no partition by metes and bounds and accused persons have executed a sale deed dated 20.09.2004 qua 2 Kanal and 17 Marlas of land and thereafter on 27.09.2004, all the accused persons entered the land forcibly and cut the crop.

The trial Court, after conducting full length trial, acquitted the respondents/accused by observing that the prosecution has failed to prove that the complainant was in exclusive possession of the land in dispute. It was also noticed that as per the judgment of the Civil Judge (Sr. Division) Gurdaspur, dated 06.03.2007 (Ex.D-1), the civil suit filed by the complainant against the accused persons praying for grant of a decree of permanent injunction *qua* the same land was dismissed holding that he was not in exclusive possession of the property in dispute.

Thereafter, the appeal filed by the State was also dismissed by the Lower Appellate Court and now the present appeal has been preferred by the son of the complainant Baljinder Singh. However, no appeal is filed by the State of Punjab.

Counsel for the applicant has argued that since there was no partition of the property in dispute, therefore, it is proved that the accused persons have forcibly cut the crops out of the joint land measuring 8 Kanals and 10 Marlas and thus, the offence is proved.

Counsel for the State has reiterated the fact that both the Courts below have appreciated the findings recorded by the Civil Court in the judgment (Ex.D-1) as well as the Jamabandi and Khasra Girdawari (Ex.D-2 and Ex.D-3), on the basis of which the Courts below have concluded that the complainant Balwant Singh was not in exclusive possession of the property in dispute and the accused persons have purchased the share in the land and have also become co-sharers and co-owners in the same and therefore, the offence is not made out.

After hearing the counsel for the parties, finding no illegality or infirmity in the judgments passed by the Courts below, the present application for grant of leave to appeal is dismissed.

Resultantly, the appeal is also dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

14.11.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No