

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-A-908-MA-2016

Decided on 06.09.2022

Amandeep Singh (deceased) through LR

... Applicant

VS.

Jatinder Pal Singh @ Sweety

... Respondent

Coram: Hon'ble Mr. Justice Sandeep Moudgil

Present: Mr. GS Thind, Advocate for the Applicant/complainant

Mr. Aakash Singla, Advocate for the respondent

Sandeep Moudgil, J.

This application has been filed by the applicant/complainant seeking leave to appeal against the judgment dated 26.11.2015 passed by JMIC, Patiala (in short the trial court) in Comp.No.7-T of 3.1.2015 whereby the respondent has been acquitted.

Brief facts of the case are that on 21.10.2004 at about 8.30 P.M, in Polo Ground, Patiala, Night Show of singer Hans Raj was going on. The applicant/complainant was standing in front of main gate of Polo Ground, Patiala, and was waiting for his friend. Suddenly, three persons came, one of them being respondent, started abusing and raised lalkara shouting that "you are not withdrawing cases against Dr. Gurdeep Singh i.e. accused No.2, let us teach a lesson to you". After saying these words, respondent along with other two persons gave beatings to the applicant/complainant. He raised alarm "Marta-Marta", and on hearing the cries, number of persons, alongwith Gurbax Singh S/o Gurditta Mal and Vijay Kumar S/o Ram Chander, came forward to save the applicant/complainant. After that the applicant/complainant became unconscious, who was admitted in Govt.

Rajindra Hospital, Patiala, in Emergency Ward with the help of some persons. At the time when this incident took place, the father of the applicant/complainant was standing nearby a Cycle Stand, situated near Amar Ashram. Subsequently, the applicant/complainant was admitted in hospital due to severe beating by respondent to the applicant/complainant, the upper four teeth were broken and the lower lip portion and right cheek of the applicant/complainant were wounded and stitching was done by the doctor. Subsequently, after being discharged from the hospital, he alongwith his father visited the police station number of times, to verify about further proceedings of the case, but the police had been illegally supporting and favouring the accused party. The police took no steps to arrest the guilty persons who are openly threatening and harassing the applicant/complainant. Dr.Gurdeep Singh is a popular Orthopedics Surgeon of Patiala and is exercising great influence over police and Rajindra Hospital, Patiala. Respondent Jatinder Pal Singh @ Sweety was working with Dr.Gurdeep Singh at his home, as private practitioner, which is just opposite to his house. Besides this, respondent is a Govt. servant working as a Clerk in the Dental Department of Govt. Rajindra Hospital, Patiala. Earlier in the year 1998, Dr. Gurdeep Singh had operated the applicant/complainant in Amar Hospital, Patiala, on 24.9.98. Metal pins with screw were inserted in the right hip joint of the applicant/complainant by Dr. Gurdeep Singh. Even, after performing the operation, the applicant/complainant was suffering pain. The applicant/complainant, at that time, approached Dr. Gurdeep Singh, who was in Govt. job but also doing private practice at Amar Hospital, Patiala, when the applicant/complainant approached Dr.

Gurdeep Singh and complained him of pain, he separated metal pins from the screw, as a result of which he underwent more pain and agony. He then approached Dr. H.S. Sohal of Rajindra Hospital, Patiala and was again operated on 27.11.2000 by the above said doctor. The applicant/complainant, who was minor at that time, filed a complaint in the Consumer Disputes Redressal Forum, Patiala, through his father/guardian on 28.5.2001. Besides this complaint, a number of other complaints were also filed against the respondent and Dr. Gurdeep Singh to the police as well as in the office of Civil Surgeon, Patiala, Rajindra Hospital, Patiala and Vigilance Department Patiala. The respondent had beaten the applicant/complainant only to take revenge of the complaints filed by him or his father. By such beatings, the accused party wants to pressurize the applicant/complainant to withdraw the cases/complaints pending against Dr. Gurdeep Singh. The applicant/complainant filed the present complaint on 03.01.2015, however, the trial court dismissed the same vide judgment dated 26.11.2015, on the ground that the applicant/complainant had falsely endeavoured to give shape to accident of assault deliberately impleading the respondent in one made up story and as such, the applicant/complainant had failed to prove the guilt of the accused party including the respondent, beyond any reasonable doubt.

Learned counsel for the applicant has contended that the judgment dated 26.11.2015 is against law and facts and is thus liable to the set aside. He submits that the injuries sustained by Amandeep Singh have been duly proved by CW1 Dr. Akashdeep Aggarwal, who has proved on record copy of MLR of Amandeep Singh as Ex.C1 and his opinion is

exhibited as Ex.C2, whereas Gurbaksh Singh CW4 is an eye-witness of the occurrence, who has duly proved the case of the applicant/complainant but the same has not been appreciated by the learned court below. He further submits that the discrepancies, if any, in the statement of CW4 are bound to occur as the occurrence is of 21.10.2004 and the evidence of CW4 was recorded after so many years of the occurrence. The trial court has not taken into consideration the fact that the incident took place on 21.10.2004 whereas the complaint was filed on 31.10.2005 and during this period of one year, the applicant/complainant was pursuing his complaints before the police authorities and when no action was taken, the complainant approached the trial court.

Learned counsel for the respondent, on the contrary, has submitted that the present application deserves to be dismissed as the judgment impugned by the applicant has been passed having based upon the fact that the applicant/complainant has falsely endeavoured to make up a concocted story.

Having heard learned counsel for the parties, I do not find any merit in this application. I say so, for the reason that the learned trial Court is right in appreciating the appraisal of testimony of CW2 Bhupinder Singh, according to which, there is previous dispute between the complainant and Bhupinder Singh with accused No.2-Dr. Bhupinder Singh since the latter had operated upon the Amandeep Singh (since deceased) in 1998 and had wrongly inserted metal pins with screws in his hip joint, in relation to which a consumer dispute was also raised. It has also come on record that CW2 Bhupinder Singh had not seen the occurrence and as such, he cannot be

taken to be as an eye witness to the incident. There are material contradictions in the statement of the witness CW4 Gurbakhsh Singh, as in his cross-examination, he has shown ignorance to various facts put to him and does not remember most of the things.

The trial court rightly pointed out that because of long gap of period between the occurrence and his evidence, it is but natural for the human memory to get obscured but the way CW4 Gurbakh Singh, in his examination-in-chief, which too was recorded after a long gap of period, remembering the date, time, manner of alleged assault is beyond comprehension and raises serious aspersions and contradictions.

It has also come on record that as per cross-examination CW1 Dr.Akashdeep Aggarwal, this case came to him as a private case and not as the police case, as such, he opined that the injuries could be caused in a road side accident and had deposed that initially, the version was given that the injury was accidental. It is a matter of record that as per Mark C, an application moved by Bhupinder Singh to Chief Minister, Punjab, dated 21.05.2005, wherein legal action was sought against Jatinderpal Singh, who works for Dr. Gurdeep Singh for taking x-ray report without any sanction for the last 15-16 years, it is clear that Bhupinder Singh is quite vindictive and was finding one or the other opportunity to trouble the respondent in order to settle old scores, which is clear from the fact that when the applicant/complainant was admitted in the hospital at 9.30 P.M, it was reported to be an accidental case but subsequently at 11.30 P.M, Bhupinder Singh wanted it to be converted into police case, meaning thereby that the applicant/complainant chose to resort to this course of action, deliberately

and intentionally, for the obvious reason of taking revenge from the respondent. Further, there is delay of more than a year in the filing of the complaint on 03.10.2005 as the date of incident is of 21.10.2004.

This Court, in view of the above stated reasons, is of the considered opinion that there is no illegality or perversity in the judgment passed by the trial court which is based on material evidence and facts.

In view of the above, there is no merit in the present application seeking leave to appeal and the same is hereby dismissed.

06.09.2022
V.Vishal

(Sandeep Moudgil)
Judge

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |