

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

CRM-A-494 of 2019

Date of decision:-17.04.2023.

Veeru Singh

.....Applicant

Versus

Darshan Lal and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Vicky Sharma, Advocate for
Mr. Fatehjeet Singh, Advocate
for the applicant.

VIKRAM AGGARWAL, J.

1. Prayer in this application is for the grant of leave to file appeal against the judgment dated 20.11.2018 passed by the Additional Chief Judicial Magistrate, Fazilka, vide which the respondents-accused were acquitted of the charges framed against them.

2. The facts, briefly put, are that the applicant-complainant filed a complaint alleging that 3-4 months prior to its filing, he had sought the record of NAREGA by way of an application under the Right to Information Act, 2005 (for short the RTI Act) as Darshan Lal, Sarpanch had got a Scheduled Caste Certificate prepared instead of getting a Backward Class Certificate prepared. On account of this, Darshan Lal had been nurturing a grudge against him. On 11.06.2016 at about 10.00 P.M., while the complainant and his family members were sleeping, Darshan Lal, Sarpanch along with respondent-accused Nos.2 to 6 came there. He exhorted the other persons to catch hold of the applicant-complainant and to teach him a lesson for seeking information through the RTI Act. Respondent-accused Nos.2 to 6 then entered the house of the applicant-complainant and assaulted him. A rope

was put round his neck and he was dragged with an intention to kill him. Fist and kick blows were also given. When his wife Harbans Kaur intervened and tried to save him, she was also beaten up. On hearing their cries, other family members and neighbours came to the spot upon which the accused fled from there. The complainant was admitted in Civil Hospital, Fazilka. It was further alleged that statement of the complainant was recorded by one ASI Harkesh Kumar, Incharge Police Post Ladhuka but no FIR was registered. As a result of the same, the complaint had to be filed.

3. Pre-summoning evidence was led, on the basis of which only respondent-accused Nos.1 to 3 were summoned for offences punishable under Section 451, 323 of the Indian Penal Code, 1860 and complaint *qua* remaining accused was dismissed.

4. Charges were framed and after charge evidence was led, in which six witnesses were examined. After charge evidence was closed and statement of accused was recorded under Section 313 Cr.P.C.

5. After considering the matter, the trial Court dismissed the complaint as a result of which the present application has been filed.

6. I have heard learned counsel for the applicant-complainant and have perused the paper book.

7. Learned counsel has submitted that the trial Court erred in dismissing the complaint despite cogent evidence having been led by the complainant. Reference has been made to the judgment and discussion in the judgment with regard to the evidence led by the complainant. It has been argued that the trial Court dismissed the complaint without examining the matter from the correct perspective.

8. I have considered the submissions made by learned counsel for the applicant-complainant, but find the same to be devoid of merit. As per the complaint, the incident took place on 11.06.2016 at about 10.00 P.M. However, the applicant-complainant was admitted in hospital on the next day about 10.30 A.M., and no intimation was given nor any complaint was submitted to the local police. No explanation for the same was given. The police received information only from the hospital on 12.06.2016. It is quite unnatural that a person who, along with his wife had been assaulted by a group of persons in the dead of the night could not even inform the police about the incident. The matter does not rest here. Even after the police having gone to the hospital on 12.06.2016, no statement was given by the applicant-complainant and for the first time, he gave his statement on 15.06.2016. This delay of three days also went unexplained. This period definitely gave ample time to the applicant-complainant to think about the whole issue and accordingly give a statement. Even the injuries suffered by the applicant-complainant did not match his version. The doctor who appeared as CW-6 stated that had a person been dragged with a rope around his neck, there would have been marks on the sides of the neck as well and there would not be a mark only on the front of the neck as was in the case of the applicant-complainant. The other witnesses including the wife of the applicant-complainant also gave inconsistent statements. The trial Court therefore, rightly gave the benefit of doubt to the respondents-accused.

9. I have not found any infirmity in the finding recorded by the learned trial Court. Even otherwise, it is settled law that Appellate Courts should be very slow in interfering in judgments of acquittal and judgments of acquittal should be reversed only if they suffer from perversity. Reliance in this regard can be placed

Vs. State of U.P. and others, 2016(2) RCR (Criminal) 319, State of Rajasthan Vs. Madan alias Madaniya, 2019 CrL.L.R.(S.C.) 09 and Rabindra Kumar Pal alias Dara Singh Vs. Republic of India, 2011(2) SCC 490.

In view of the aforementioned facts and circumstances, I do not find any merit in the present application for the grant of leave to appeal and the same is, therefore, dismissed.

April 17th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned : *Yes/No.*
Whether reportable : *Yes/No.*