

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

201

CRM-A-471-MA-2008 (O&M)

Decided on : 02.02.2023

Surinder Kumar

. . . Petitioner(s)

Versus

Charan Singh and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Naresh Prabhakar, Advocate for the applicant.

Ms. Mandeep Kaur, Advocate
Legal Aid Counsel and
Mr. B.B.S. Randhawa, Advocate
for respondents No. 1 to 5.

SANJAY VASHISTH, J. (Oral)

Present application, under Sections 378 (4) & (5) Cr. P.C., has been filed by the applicant/complainant- Surinder Kumar, seeking special leave to appeal, against the judgment of acquittal, dated 07.07.2008, passed by learned Sub Divisional Judicial Magistrate, Sultanpur, Lodhi, in complaint No. 144 of 09.08.2005- “ Surinder Kumar vs Charan Singh and others’.

Learned counsel for the applicant submits that, in the complaint case, complainant- Sureinder Kumar (here-in-after referred to as ‘the applicant’) had filed one complaint No. 144 dated 09.08.2005 under Sections 452, 447, 427, 149, 323, 120-B IPC against 5 respondents i.e. (1) Charan Singh, (ii) Mahinder Kaur (iii) Ranjit Singh (iv) Paramjit Kaur and (v) Kamaljit Kaur. Said complaint pertained to two incidents i.e. incidents dated 09.06.2005 and 21.07.2005.

Vide judgment dated 07.07.2008, Court of learned Sub Divisional Judicial Magistrate, Sultanpur, Lodhi, acquitted all the accused for the incident dated 21.07.2005 by giving detailed observations in paragraph 14 of its judgment.

Said paragraph No. 14 says as under:

“14. First of all, I deem it proper to take up the evidence on occurrence dated 21.7.2005. The complainant himself has

reiterated the version of complaint in this regard and has examined one Gurmit Singh PW4. Gurmit Singh has not given the date on which date the incident is alleged to have taken place. He has stated that he does not know the name of father of Kashmir Singh but he is of village Ahli Kalan, which is some different village. He could not tell as to on which side is the face of shop of complainant. He denied if he has deposed against Charan Singh earlier also but learned counsel for the accused argued that he had filed a complaint against Charan Singh and he is an interested witness and is deposing falsely due to previous grudge. Complainant Surinder Kumar admitted that he was admitted to hospital only on 9.6.2005. Even, Dr.Rajan Bhatti deposed that there is no record of his admission in the hospital on 21.7.2005. The version of complainant is that on 21.7.2005 all the accused had entered his shop and accused Charan Singh had pulled him out of the shop and accused had slapped him and also gave fist blows. In such a situation, especially, when there was previous enmity between the parties, the complainant must have gone to the hospital for medico-legal examination on that day also. Even Gurmit Singh witness is somehow interested witness. Kashmir Singh was examined only in preliminary evidence. Further more, all the family members of Charan Singh accused have been involved in the incident dated 21.7.2005. It is well settled that prosecution/ complainant is to prove the case beyond shadow of reasonable doubt but from the evidence as discussed above, the complainant has failed to prove the incident dated 21.7.2005 rather it appears that this version has been given to involve all the family members of accused Charan Singh.”

However, qua the incident dated 09.06.2005, respondent No. 1- Charan Singh was convicted for the offence under Section 323 IPC and was accordingly sentenced for a period of one year as rigorous imprisonment alongwith fine amount of Rs. 500/- in default of payment of fine further rigorous imprisonment for two months.

Against the said judgment, respondent No. 1-Charan Singh had filed criminal Appeal No. 38 dated 30.07.2008 before the Court of Sessions. However, after listing of the said appeal before the pre Lok Adalat, settlement/compromise was arrived between the complainant and respondent No. 1-Charan Singh and amount of Rs. 1500/- as *Harjana* money was also paid to the complainant-Surinder Kumar and same was received by him. Subsequently, at the time of holding of Mega Lok Adalat, complainant retracted from the said terms and then the order dated 20.12.2008 was passed by Presiding Officer Mega Lok Adalat Cum Additional Sessions, Judge, Kapurthala, which is available on record as Annexure R-1.

Relevant part of the said order is reproduced here below:

“Claim in Appeal: To accept the appeal and to set aside the judgment under appeal and the accused/appellant may kindly be acquitted of the charge.

Charge:- Under sections 323 of Indian Penal Code.

Present: Parties/Representative/Counsel.

Matter taken up before Mega Lok Adalat. It stands settled already during the Pre-Lok Adalat where the statement of the appellant and respondent were recorded regarding the compromise and compounding of the offence. Offence was compoundable without even the permission of the Court and statements of both the parties were duly recorded in Pre-Lok Adalat where both of them agreed to compound the offence so much so Rs. 1500/- Harzana money was also made to be paid to complainant Surinder Kumar who received the same. The matter stood compounded already. Although some application has been made by complainant Surinder Kumar, which is apparently an after thought, the statement bore his signature. It was even admitted he received Rs. 1500/- amount as Harzana while compounding the matter. Matter since stands compounded already there can be no going back or backing out from what has been once agreed by the parties, voluntarily and the statements recorded on oath

of the parties carries sanctity as such the present appeal is disposed of accordingly since the matter compounded and the judgment of conviction is set aside after an appeal is accepted as per the compounding of the matter. File be consigned to the record room.

Pronounced.

Dated: 20.12.2008

Sd/-

Presiding Officer Mega Lok Adalat
cum Additional Sessions Judge,
Kapurthala”

On the previous date of hearing parties were directed to produce compounding statement given by the parties and the application submitted thereof. Though, same is not brought on record today, still during the course of hearing, learned counsel for the applicant has produced a copy of statement of complainant- Surinder Kumar and same is taken on record. Registry is directed to tag the same at appropriate place.

Since, it is in Punjabi language, counsel for the applicant has read out in the open Court. Translated meaning of which is that ‘*all the misunderstanding between the parties have been finished.*’ However, learned counsel for the applicant has also produced the translated copy of the said statement and same is taken on record. Registry is directed to tag the same at appropriate place.

This Court has gone through the record and in view of the findings given by the learned trial Court in regard to the incident dated 21.07.2005 in paragraph No. 14, which is reproduced here above, there appears to be no discrepancy, if the same is compared with the record of the case.

Moreover, joint statement of compromise during complaint No.38 dated 30.07.2008 gives a clear impression that parties including complainant had agreed that all the disputes between them have finished by way of said compromise.

In view of the reasoning recorded by the trial Court while acquitting the accused for the offence dated 21.07.2005 and the submission recorded here above, I find that there is no illegality in the impugned judgment and same is worth to be maintained.

However, there is nothing special ground highlighted by the applicant worth to seek Special leave to appeal. **Hence, present application, seeking special leave to appeal, being devoid merit, is accordingly dismissed.**

(SANJAY VASHISTH)
JUDGE

02.02.2023
Riya

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>