

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-1248-MA of 2018
Date of decision:19th September, 2023

Beant Singh

Applicant

Versus

Harbhajan Singh @ Kannu and others

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Raghav Bali, Advocate for
Mr. Pankaj Bali, Advocate for the applicant.

AVNEESH JHINGAN, J (Oral):

1. This is an application under Section 378(4) Cr.P.C. seeking leave to appeal against judgment of acquittal in Criminal Complaint No. 1 dated 5.8.2011 under Sections 307, 323, 325, 341, 148 and 149 IPC.
2. The brief facts are that the applicant filed a complaint against the accused (respondents). It was alleged that on 22.5.2011, when the applicant was returning from the fields, the respondents ambushed him near the pulli (small bridge), attacked him with a stick inflicted injuries and the blood started oozing out from the head. The complainant was saved by Hardev Singh, Bagga Singh and Surinder Singh and taken to Community Health Centre, Payal (herein after referred to as 'CHC').
3. The respondents were summoned to face trial under Sections 323 and 341 read with Section 34 IPC.
4. The court considering the facts and appreciating the evidence

adduced dismissed the complaint on failure of the applicant to prove the case beyond reasonable doubt. The respondents were acquitted.

5. Learned counsel for the applicant submits that the court erred in dismissing the complaint and not appreciated the evidence in correct perspective.

6. The contention raised by learned counsel for the applicant lacks merit. While acquitting the respondents, the court considered that the incident allegedly took place on 22.5.2011 at 9.00 PM. The applicant in cross-examination admitted that it took 15-20 minutes to reach Civil Hospital from their village. As per MLR, he was examined on the next day i.e. 23.5.2011 at 6.35 AM. The case set up was found to be doubtful, considering that if the blood was oozing from the head of the applicant, it would be unbelievable that the applicant would wait till the next morning for getting treatment in the hospital. The applicant in the cross-examination deposed that he was unconscious and when he woke up on 23.5.2011 he found himself in CHC. As per the applicant, he became unconscious around 9.00 PM on 22.5.2011 and gained consciousness at 10.00/11.00 AM on 23.5.2011. The deposition was contrary to the medico-legal report in which it was mentioned that the patient was conscious, co-operative and well oriented to time and place. Further the applicant had signed the medico-legal report. There was no mention in the medico-legal report that the applicant remained unconscious.

7. During cross-examination, the applicant admitted that he was involved in a fight on 19.5.2011 and got admitted in Bhangu Hospital but had not filed the police complaint regarding the first fight. He admitted that

his statement was recorded by the police officials in Bhangu Hospital on 19.5.2011 stating that he fell from the stairs and suffered injuries on his head. Copy of the statement was exhibited as D2. In spite of admitting the fact that he had sustained injuries while falling down from the stair-case, it was stated that he was remembering the injuries suffered.

8. In view of the material contradictions in the deposition, cross-examination and medical evidence, the allegations made by the applicant are doubtful. The complaint was rightly dismissed on failure to prove the case beyond reasonable doubt.

9. There cannot be any quarrel on the proposition that at this stage there cannot be re-appreciation of evidence. The conclusion arrived at by the trial court is plausible. There is no factual or legal error much less perversity in the impugned judgment.

10. No case is made out for interference.

11. The application is dismissed.

[AVNEESH JHINGAN]
JUDGE

19th September, 2023
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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No