

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

CRM-A-1465-MA-2016

Date of decision:- 13.04.2023.

Randhir Singh

.....Applicant

Versus

Dalbir Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Sandeep Godara, Advocate for
Mr. Ajay Pal Singh Rehan, Advocate
for the applicant.

Mr. Soharb Dhanda, Advocate with
Mr. A.S. Manaise, Advocate
for the respondents.

VIKRAM AGGARWAL, J.

1. Prayer in this application filed under Section 378(4) Cr.P.C. is for the grant of special leave to appeal from the judgment dated 06.06.2016 passed by the Judicial Magistrate First Class, Gurdaspur, vide which the respondents-accused were acquitted.

2. A private complaint was filed by the applicant with the allegations that he was working in a woollen mill at Dhariwal and his elder brother Gurnam Singh was working in a private Hospital at Amritsar. His father Ghasita Singh was having 23 Kanals of land which had been divided equally amongst five brothers. The applicant-complainant was cultivating the land of his brother Gurman Singh on lease, as a result of which the respondents-accused kept enmity with him. On 30.06.2012 at about 5.00 P.M., the applicant-complainant came to his house after

completing his duty. The respondents-accused Dalbir Singh and Jaspal Singh, who were armed with sticks, Harpreet Singh with a Hockey and Sonu with an iron rod forcibly entered his house. Dalbir Singh exhorted that the applicant-complainant should not be spared and should be taught a lesson for cultivating the land of Gurnam Singh. He, therefore, gave a stick blow on the head of he complainant. Harpreet Singh also gave a hockey blow on his left leg. Jaspal Singh gave a stick blow on the wrist, Sonu gave a rod blow on his wrist and Harpreet Singh gave a hockey blow on the left bicep. Other blows given by the accused on different parts of the body were also mentioned. As per the complainant, the occurrence was witnessed by his wife-Sarabjit Kaur and neighbour Chanchal Singh. When they raised alarm, the accused fled from the spot and while leaving, gave threats to them. The injured were taken to the PHC Naushreha Majja Singh by their relative Tarlok Singh where the applicant-complainant was medico-legally examined. X-ray was also conducted. On 01.07.2012, police from the Police Station Ghuman Kalan also came and recorded his statement. After discharge from the hospital, the applicant-complainant saw that the accused were roaming around freely in the village. They threatened him that on any complaint being made by him, he would be killed. He, therefore, went to the police station on the next date but the police officials kept on putting of the matter till 25.09.2012. Since the FIR was not registered, the complaint was filed.

3. After the preliminary evidence, the respondents-accused were summoned to face trial under Section 323, 452 read with Section 34 of the Indian Penal Code, 1860 vide order dated 21.10.2014. In the pre-charge evidence certain witnesses were examined, whereupon charges were framed under Section 323, 452, 34 IPC.

4. After closing of after charge evidence, the evidence of the complainant was closed and statements of accused were recorded under Section 313 Cr.P.C.

5. In defence, one witness was examined and certain documents were also tendered into evidence. Vide judgment under challenge, the respondents-accused were acquitted leading to the filing of the present application.

6. Notice of the application was issued.

7. I have heard learned counsel for the parties and with their assistance, have perused the record of the trial Court which was duly summoned. Learned counsel for the applicant has submitted that the trial Court has gravely erred in acquitting the respondents-accused. Reference has been made to the evidence led by the applicant-complainant in which it has been stated that despite cogent evidence having been led on the record, the trial Court erroneously acquitted the respondents-accused.

8. On the other hand, learned counsel for the respondents-accused has submitted that there is no illegality or infirmity in the decision of the trial Court and no occasion arises to interfere in the well reasoned judgment.

9. I have considered the submissions made by learned counsel for the parties.

10. As per the complainant, the incident took place on 30.06.2012 at about 5.00 P.M. The complaint was however filed on 27.09.2012. Though it is the case of the complainant that he had been going to the police but the police had been putting off the matter, no evidence worth its name was produced on record to prove this fact. No complaint made to the police was produced. No official from

complainant who appeared as CW-1 admitted that he had moved a written complaint to the police and the police had also recorded his statement but still he neither produced the said complaint nor examined any official to prove this fact. Even the statement alleged to have been recorded by the police in the police station Ghuman Kalan was not brought on record. Further, he did not give any reason for the inordinate delay which took place in filing the complaint. Under the circumstances, the trial Court rightly non-suited the applicant-complainant on the ground of delay.

11. Not only this, the trial Court found the statements of the complainant witnesses i.e. CW-1 and CW-3 to be riddled with inconsistencies. These witnesses also stated that their statements had been recorded by the police but did not produce any such statement. On the contrary, the respondents-accused brought on record a statements of the complainant recorded on 10.07.2012, Ex.DW-1/D, wherein a different version had been given by him. In that statement, it had been stated by him that the occurrence had taken place near the gate of his house and he had named some females also whereas in the complaint filed in the Court, the version was that the respondents-accused had entered his house and did not name any female. These contradictions were also duly noticed by the trial Court and found that the facts given in the complaint were exaggerated.

12. As if this was not enough, no independent witness was examined to prove the incident. Though it was the own case of the complainant that his neighbor Chanchal Singh, had witnessed the incident, he was not examined and no explanation was given for the same. The only evidence which came on record was that of the complainant and his wife, which could also have been believed had the

same been consistent. However, since the same was not consistent, it was rightly discarded by the trial Court.

13. Even the ocular evidence was not supported by medical or documentary evidence. No X-ray film etc., was produced on record to prove that a grievous injury had been suffered by the complainant. In fact Dr. Baljit Singh, who appeared as CW-4 who was a Member of the Board which had examined the X-ray subsequently stated in his statement in the Court that for injury No.2, no abnormality was deducted nor was there any fracture or dislocation.

14. In view of the aforementioned facts and circumstances, the trial Court acquitted the respondents-accused. I have not found any infirmity in the findings 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 upon the judgments passed by the Hon'ble Supreme Court in *Sadhu Saran Singh 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 13th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

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