

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

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2023:PHHC:158516

CRM-A-1038-MA-2017

Date of decision: December 11th, 2023

Bir Singh

.....Applicant

Versus

Charna Ram and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Gurvinder Singh, Advocate
for the applicant.

MANJARI NEHRU KAUL, J.

The applicant-complainant is impugning the judgment dated 01.03.2017 passed by learned Sub Divisional Judicial Magistrate, Guhla, whereby the respondents/accused have been acquitted of the charges framed against them.

2. As per the allegations levelled in the complaint filed by the applicant/complainant (hereinafter referred to as 'complainant'), previously accused No.1-Charna Ram and other persons attempted to take forcible and illegal possession of land of the complainant and his brothers. Consequently, a civil suit was filed against accused No.1 and others at Civil Courts, Guhla, leading to an order restraining them from interfering with the peaceful possession of the land of the complainant's family. This legal action led to hostility from the accused towards the complainant party. On 19.11.2023, at around 3:00 PM, all the accused forcibly entered the complainant's house armed with weapons. Accused No.1-Charna Ram demanded the withdrawal of the civil suit pending between the parties, and upon refusal, incited the co-accused to attack the complainant party. Accused-Jassa Ram, struck the left thumb of the complainant with a sickle, accused No.2-Paramjeet

Singh hit the head of the complainant's daughter with a sickle and subsequently, the other accused also inflicted further physical harm to the daughter of the complainant. On a hue and cry raised, Gurmito and Sumitra arrived at the spot and rescued the complainant and his family. Before leaving, the accused threatened the complainant party with dire consequences in case the civil suit pending between them was not withdrawn. Thereafter, the complainant along with his daughter Rani Devi went to Civil Hospital, Guhla, where they were medically examined for the injuries allegedly sustained in the occurrence in question. As the police failed to take any action against the accused persons, and instead lodged a false FIR against the family of the complainant, the complaint in question was filed by the complainant.

3. On the basis of the evidence led, the trial Court passed the impugned judgment by concluding that it was evidently a fabricated story brought forth by the complainant and was a counter blast to FIR No.123 of 2013 registered under Sections 147, 323, 325, 506 read with Section 149 of the IPC at the instance of the accused against the complainant party pertaining to the same occurrence, (subject matter of the complaint in question).

4. Learned counsel for the complainant has vehemently argued that the impugned judgment vide which the accused were acquitted comes across as being grossly perverse and erroneous. The Court below failed to appropriately appreciate the evidence led by the complainant and furthermore, also ignored a very crucial fact that the genesis of the occurrence was the ongoing civil dispute between the parties, wherein an interim order in favour of the complainant had been passed, as a result thereof the accused party were nursing a grudge

against them. Consequently, it was in the aforementioned background, the accused forcibly trespassed into the house of the complainant and initiated an unprovoked attack on him as well as his daughter. It was further argued that the trial Court erroneously doubted the timing of the occurrence in question by highlighting the gap between the date of occurrence i.e. 19.11.2023 and the medical examination of the complainant, which was conducted on 25.11.2013; this doubt and gap between the occurrence and the medical examination of the complainant was inconsequential, given that the complainant party had promptly reported the matter to the police after the occurrence in question. However, due to a false case having been registered against the complainant by the police, he was unable to undergo a medical examination immediately on the day of the occurrence itself as he had by then been arrested by the police. It was still further argued that the trial Court also erred in doubting the version brought forth qua the purported discrepancy with respect to the nature of weapons used by the accused; any such purported contradiction in the said regard was trivial in nature and could not have undermined the case of the complainant. It was lastly argued that the trial Court also fell into error by misreading the evidence with respect to the offence of criminal trespass under Section 452 of the IPC not being made out as the house of the complainant was situated within his fields and hence, the complainant was right when he alleged that he was working in his fields when the accused party entered his house forcibly and attacked him.

5. I have heard learned counsel for the applicant and perused the relevant material on record.

6. The burden in the case in hand rested upon the complainant to substantiate that the accused being part of the unlawful assembly while wielding sharp edged weapon assaulted the complainant party. In addition, the burden was again on the complainant to demonstrate that the accused party had willfully inflicted injuries, though minor in nature, upon the daughter of the complainant. During the course of the trial, no doubt the complainant corroborated the allegations levelled in the complaint in question, however, on a careful perusal of the evidence particularly the cross-examination of the complainant, it comes across that he stated that he was all alone in his fields and engaged in his agricultural activities when he was attacked by the accused party, and his brothers Gian Chand and Diwan Chand came to the spot, after the occurrence had taken place. This explicit statement, during his cross-examination by the complainant, reveals his sole presence in the field which is contrary to the initial version brought forth by the complainant in the complaint in question, wherein he had alleged that on 19.11.2013, he along with his other family members, were at their residence. In the circumstances, it is evident that this explicit deposition during trial by the complainant of being all by himself in his fields renders his version of the accused trespassing into his house untenable and a material improvement.

7. Moreover, during his cross-examination, the complainant also conceded that certain relatives of accused Charna Ram had approached him in his fields for extending an invitation to participate in a Panchayat. In the light of the aforementioned invitation and interaction between the complainant and the relatives of accused Charna Ram, the purported motive for committing any offence, let

alone the alleged offence appears unfounded. Furthermore and pertinently, the complainant during his cross-examination admitted that there had been no prior altercation between him and the accused. Notably, it is also a matter of record that FIR No.123 of 2013 under Sections 147, 323, 325, 506 read with Section 149 of the IPC was lodged against the complainant at the behest of the accused pertaining to the same occurrence in question. Still further, there had been an unexplained delay of six days in getting the injured medically examined as it was done only on 25.11.2023, whereas the occurrence in question took place on 19.11.2013, thus, creating another dent in the story brought forth by the complainant.

8. This Court, therefore, concurs with the findings recorded by the Court below that the complainant had failed to prove the ingredients of offence as alleged in the complaint.

9. As a sequel to the above, the instant application being devoid of any merit, stands dismissed.

December 11th, 2023
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No