

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

CRM-A No.1680-MA of 2017 (O&M)

Date of decision: 3rd May, 2023

Amarjit

... Appellant

Versus

Oma Shankar & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ranbir Singh Sekhon, Advocate for the appellant.

MANJARI NEHRU KAUL, J.

CRM No.24790 of 2017

The instant application has been filed for condonation of delay of 6 days in filing the appeal.

In the light of averments made in the application and in the interest of justice, the same is allowed and delay in filing the appeal is condoned.

CRM-A No.1680-MA of 2017

The appellant is impugning the judgment of acquittal of respondents/accused dated 03.04.2017 passed by the learned Judicial Magistrate 1st Class, Ferozepur arising out of complaint No.RBT-197 filed by Amarjit under Sections 323, 452, 429, 506, 34 IPC.

As per the allegations levelled in the compliant in question, on 29.04.2013 at about 8.00 p.m. the accused respondents after entering into the house of the complainant, killed as many as 100 chickens by

throwing brickbats on them. When the complainant and his wife restrained the accused respondents from doing so, the latter entered into a scuffle with both of them and slapped the complainant. On a hue and cry raised, all the respondents then fled away from the spot. It was alleged that 2-3 days prior to the occurrence in question, the accused respondents had threateningly asked the complainant to shift the chickens out from their house. It was also alleged in the complaint that the respondent accused No.1 was nursing a grudge against the complainant on account of their different political affiliations. As a result of 100 chickens being done to death by the accused respondents, the complainant incurred losses to the tune of ₹ 15,000/-. Though the complainant reported the matter to the authorities concerned, however, they failed to initiate any action against the accused respondents, as a result of which he was left with no other option but to lodge the complaint in question. On the basis of the preliminary evidence, the accused were summoned to face trial for offences under Sections 452, 323, 34 IPC by the trial Court. On the basis of evidence and other material led, the trial Court vide its judgment dated 03.04.2017 acquitted accused respondents No.2 to 5. Since accused No.1 Ved Parkash died during the pendency of the complaint, proceedings qua him abated.

Learned counsel for the appellant has challenged the impugned judgment of acquittal primarily on the following two grounds that:

- (i) enough cogent evidence had been led qua the involvement of all the accused of not only causing injuries to the complainant, but also killing 100 chickens by throwing brickbats on them;
- (ii) the witnesses examined by the complainant had fully corroborated the complaint case on all material facts, however, the trial Court by ignoring the complainant's version acquitted the respondents accused of the charges framed against them after giving them, the benefit of doubt.

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

No cogent or reliable evidence was adduced by the complainant with respect to the motive of the accused to commit the crime in question, though it was vehemently argued that as many as 100 chickens were killed by the accused party with brickbats. The least which the complainant party could have done in support of the allegations was to examine some veterinary doctor or place on record some medical evidence to establish that, if not all the chickens, at least some of them, had been killed with brickbats by the accused respondents.

This Court also cannot ignore a major contradiction appearing in the testimony of CW-3 Filton Pal, who on one hand deposed that on 01.10.2013 chickens had been killed after they were taken out from a hole in the shed, whereas, during his cross-

examination, he came up with an altogether contrary version that all the chickens had been killed inside the shed itself. Strangely, the complainant while stepping into the witness box as CW-2, admitted in his cross-examination that CW-3 Filton Pal was his relative but CW-3 Filton Pal denied that he was in any manner related to the complainant CW-2 Amarjit. Thus, the testimony of CW-3 Filton Pal does not come across as being trustworthy. As per the case of the complainant, the occurrence in question took place in a residential area however, other than his immediate family members not even a single independent witness stepped into the witness box to lend support to the case of the complainant. No doubt, as per the complainant, one Raj Pal was a witness to the occurrence, however, said Raj Pal for reasons best known to the complainant, was not even examined by the complainant, in support of his case.

As a sequel to the above, this Court does not find any error in the impugned judgment. The leave to appeal is accordingly declined.

(MANJARI NEHRU KAUL)
JUDGE

May 3, 2023
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No