

CRM-A-2585-MA-2017 (O&amp;M)

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**265 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH****CRM-A-2585-MA-2017 (O&M)**

DATE OF DECISION: -10.04.2023

Gurpinder Singh

..... Applicant.

Versus

Charanjit Singh and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA**Present: Mr.Achin Gupta, Advocate,  
for the applicant.

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**HARKESH MANUJA, J.**

Present application has been filed under Section 378 (4) Cr.P.C., 1973 for grant of leave to appeal against judgment of acquittal dated 07.10.2017 passed by the court of learned Judicial Magistrate Ist Class, Faridkot, whereby respondents No.1 to 4 have been acquitted of the charges framed against them.

2. Briefly, the facts of the case are that a complaint under Sections 382, 447, 427, 336, 506, 120-B, 34 IPC and Sections 25, 27 of the Arms Act, 1954 was registered against the accused on the basis of statement made by applicant-complainant (Gurpinder Singh), alleging that on 19.10.2014 at about 6:00 p.m. when he was present in his fields then a combine bearing No.PB-04-P-6297 make *Kartar*, being driven by Naib Singh, one tractor Swaraj 744 with trolley being driven by Charanjit Singh and one car Swift being driven by Phuljit Singh and Joginder Singh, who was also sitting on its front seat came to his field and Charanjit Singh raised lalkara that paddy crop sown by complainant should be chopped off. Thereafter, complainant made a telephonic call to his

brother-Jaspinder Singh, upon which his brother and father came at the spot. Naib Singh forcibly entered his combine in his fields and started harvesting their paddy crop and when they tried to stop him, then Charanjit Singh took out revolver from his dub, Phuljit Singh armed with .12 bore gun and Joginder Singh armed with .12 bore gun, started firing towards them in order to put them under fear and started raising lalkaras that if they stopped them from harvesting the paddy crop, they would be eliminated. In the meanwhile, Sukhdeep Pal Singh and Bhajan Singh, lambardar also came at the spot and tried to stop the accused, but they threatened them as well. Due to fear of death, complainant could not stop them and accused harvested the paddy crop and forcibly took away the grains with them, which was amounting to Rs.80,000/-. Hence, the complaint.

3. In order to prove his case, complainant examined as many as three witnesses. Thereafter, statements of accused under Section 313 Cr.P.C. were recorded, wherein, they denied the allegations and pleaded false implication.

4. On appreciation of evidence and after hearing arguments advanced by counsel for both the parties, learned trial Court acquitted respondent No.1 to 4 vide its judgment dated 07.10.2017. The present application for grant of leave to appeal against aforesaid judgment has been filed by raising various grounds.

5. Learned counsel for the applicant vehemently argued that the learned trial court failed to appreciate that in order to prove his case, the applicant himself appeared as CW-3 and examined Sukhdeep Pal Singh as CW-1 besides examining Gurmeet Singh as CW-2 and tendered into evidence copies of jamabandies, Khasra Girdawaries, photographs of place of occurrence as well as photographs of respondent No.1 Charanjit Singh with

political leaders, which clearly proved the contents of complaint beyond any shadow of doubt. Learned counsel further submits that the learned trial court wrongly acquitted the respondents by giving undue weight to the document placed on record by the respondents i.e. copy of order passed by District Collector, Faridkot dated 13.06.2017 as Ex.DX.

7. Having heard the arguments advanced by learned counsel for the applicant besides having gone through the judgment passed by the learned trial Court and other documents available on the file, I am unable to find any substance in the submissions made on behalf of the applicant.

8. As per the version of applicant, accused(s) persons entered his land and started harvesting paddy crop, but no cogent evidence has been led to prove his exclusive ownership over the land where the occurrence took place and the learned trial court thus rightly held that when the land does not belong to the applicant, its crop also does not belong to him. In order to establish the offence committed by the accused, complainant examined himself as CW-1 and during his cross-examination, he deposed that they did not take cartridges from the spot and also admitted that the civil litigation of Sukhwinder Kaur was pending since 2009. They neither filed any application before any authority nor before the Agriculture Department as to how much crop was destroyed. More importantly, CW-2 Gurmeet Singh (father of complainant) during his cross-examination admitted that the land where the occurrence took place belongs to Sukhwinder Kaur. He further deposed that no appeal against the order of SDM was filed. Furthermore, CW-3 Sukhdeep Pal Singh (spot witness) during his cross-examination deposed that MHC got recorded the statement of applicant, but police did not visit the spot. Moreover, the said MHC was not examined by the applicant to corroborate his version. In

complainant is neither the owner nor in possession of the land where occurrence took place.

9. On account of the aforementioned observations, I do not find any illegality or perversity in the judgment of acquittal passed by the learned trial Court. In **“Arulvelu & another v. State represented by the Public Prosecutor & another”**, reported as 2009(4) RCR (Criminal) 638, the Hon’ble Supreme Court has laid down the following guidelines for the appellate court while dealing with cases where trial court acquitted the accused :-

*"1. The accused is presumed to be innocent until proved guilty. The accused possessed this presumption when he was before the trial court. The trial court's acquittal bolsters the presumption that he is innocent.*

*2. The power of reviewing evidence is wide and the appellate court can re-appreciate the entire evidence on record. It can review the trial court's conclusion with respect to both facts and law, but the Appellate Court must give due weight and consideration to the decision of the trial court.*

*3. The appellate court should always keep in mind that the trial court had the distinct advantage of watching the demeanor of the witnesses. The trial court is in a better position to evaluate the credibility of the witnesses.*

*4. The appellate court may only overrule or otherwise disturb the trial court's acquittal if it has "very substantial and compelling reasons" for doing so.*

*5. If two reasonable or possible views can be reached - one that leads to acquittal, the other to conviction - the High Courts/ appellate courts must rule in favour of the accused.*

*6. An order of acquittal should not be lightly interfered with even if the Court believes that there is some evidence pointing out the finger towards the accused.*

*7. The trial court judgment cannot be set aside because the appellate court's view is more probable. The appellate court would not be justified in setting aside the trial court judgment*

*unless it arrives at a clear finding on marshaling the entire evidence on record that the judgment of the trial court is either perverse or wholly unsustainable in law."*

10. In the light of aforesaid guidelines, I have examined the judgment of the learned trial Court and the reasoning given by it for the acquittal of the respondents. In the facts and circumstances of the present case and based on the evidence available on record, the learned trial Court, after properly appreciating the evidence, has rightly come to the conclusion that the complainant has failed to prove the case against the respondents beyond all reasonable doubts. The view taken by the learned trial Court is not in any way unreasonable, perverse or impossible, rather, in the facts and circumstances of the case and the evidence led by both the parties, no second view is possible and plausible. The trial Court has rightly held that the complainant examined himself as CW-1 and his father as CW-2 both closely related and the third witness Sukhdeep Pal Singh-CW-3, who even did not stand the test of cross-examination. No other witness was examined by the applicant/complainant to prove his case.

11. In view of the discussion made herein above, there being no illegality or perversity in the reasoning recorded by the trial Court, I do not find any ground to grant leave to appeal against its judgment dated 07.10.2017. Hence, the present application is dismissed.

10.04.2023  
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**(HARKESH MANUJA)**  
**JUDGE**

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