

CRM-29838-2019
in/and CRM-A-2232-2019 (O & M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-29838-2019
in/and CRM-A-2232-2019 (O & M)
Date of decision: 10.04.2023

DeepakApplicant/Appellant

V/s

Rohtash and ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Namit Sharma, Advocate, for the applicant/appellant.

JASJIT SINGH BEDI, J. (Oral)

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This is an application under Section 5 of the Limitation Act seeking condonation of delay of 69 days in filing the present appeal.

For the reasons mentioned in the application, the same is allowed. The delay of 69 days in filing the present appeal is condoned.

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The applicant/appellant has filed the present application for grant of leave to appeal against the impugned judgment dated 22.04.2019 passed by the Sub Divisional Judicial Magistrate, Samalkha whereby the complaint filed by the appellant-complainant under Sections 323, 504, 506, 34 IPC has been dismissed and the respondents-accused have been acquitted.

2. The brief facts as per the complaint are that on 7.6.2012 at about 7:00 PM, the complainant/applicant-appellant (hereinafter known as 'the complainant') went to his field for irrigating his crops and in the meantime, all the accused entered in his field armed with lathis and gave beatings to him. The accused also extended threats to kill him in future. It

was further alleged by the complainant that he was admitted in Civil

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Hospital, Samalkha and was medico legally examined vide MLR dated 07.06.2013. Thereafter, he (complainant) had given a complaint to the police but no action was taken. On 09.06.2012 all the accused persons gathered in front of his house and had tried to forcibly enter into his house but his father had shut the door and all the accused persons used filthy language upon him (complainant) and his family members and also threw bricks upon his house and fled away from the spot. Thereafter, the police got recorded his statement and that of his father but no action was taken against the culprits, leading to the filing of the complaint

3. In support of the complaint, the complainant led preliminary evidence and examined the following witnesses:

Sr. No.	Witnesses/	Name of Witnesses
1.	CW-1	Deepak
2.	CW-2	Satbir

The complainant tendered the following documents in preliminary evidence:

Sr. No.	Exhibits	Detail of documents
1.	Ex. C1 to C5	Postal Receipts
2.	Mark CA	MLR of injured
3.	Mark B	Complaint moved by Satbir
4.	Mark C	Complaint Receipt
5.	Mark D	Application moved to SHO, P.S. Samalkha
6.	Mark E	Copy of Calendra
7.	Mark F	Complaint moved by Satbir to SDM, Samalkha
8.	Mark G	Complaint moved by Satbir to I.G. Rohtak

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4. On finding sufficient grounds to proceed against the accused, they were summoned to face trial for the commission of offences punishable under sections 323/506 of IPC vide order dated 10.08.2018.

5. In pre-charge evidence, one PW Deepak was examined and the same was closed by the counsel for the complainant vide his separately recorded statement.

6. In after-charge evidence, the Defence counsel suffered a statement in writing that he did not want to cross-examine the witness who had already been examined in pre-charge evidence and the same was closed by the complainant vide his separately recorded statement. Thereafter, charges against the accused persons were framed upon which they pleaded not guilty and claimed trial.

7. The statements of the accused were recorded under Section 313 Cr.P.C. in which all the incriminating evidence against them was put to them to which they pleaded their innocence and claimed false implication.

8. In defence, one DW Virender was examined as DW1.

9. Based on the evidence led, the accused came to be acquitted vide judgment dated 22.04.2019 passed by the Sub Divisional Judicial Magistrate, Samalkha.

The present appeal has been filed against the aforesaid judgment of acquittal.

10. The learned counsel for the applicant-appellant contends that two witnesses had established the case against the accused-respondents beyond reasonable doubt. The witnesses had categorically deposed that the

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injuries had been caused to them by the accused. The minor discrepancies did not falsify the complainant's case. The non-examination of independent witnesses was not fatal to the case of the complainant and the view taken by the Trial Court while acquitting the accused is completely illegal and contrary to the record and was liable to be set aside.

11. I have heard the learned counsel for the applicant-appellant at length.

12. Admittedly, pursuant to the filing of the complaint, an enquiry under Section 202 Cr.P.C. was conducted, during which, it was found that no occurrence had taken place but there was an oral altercation between the parties. Even the MLR in question does not suggest an assault by four persons as is pleaded by the complainant. There is a considerable delay in filing of the complaint. The occurrence took place on 07.06.2012 and the instant complaint came to be filed on 07.06.2013. No plausible explanation has been furnished for the delay of one year in the institution of the complaint. Further, no independent witness has been examined to substantiate the version of the complainant despite the availability of the same. Thus, the view taken by the Trial Court while acquitting the accused is a possible and credible one, which does not require to be interfered with.

13. Therefore, this Court sees no reason to interfere with the well reasoned judgment of the Trial Court and hence the application for grant of leave to appeal is hereby dismissed.

(JASJIT SINGH BEDI)
JUDGE

April 10, 2023
sukhpreet

SUKHPREET KAUR
 2023.04.12 09:14
 I attest to the accuracy and
 integrity of this document

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