

247 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-2111-MA-2018 (O&M)
Decided on : 14.09.2023

Raju

..... Applicant

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Karan Singla, Advocate
for the applicant.

Manjari Nehru Kaul, J.(Oral)

Instant application has been filed by the applicant under Section 378(4) Cr.PC feeling aggrieved against the judgment dated 26.10.2013 passed by learned Sub Divisional Judicial Magistrate, Phul vide which the accused have been acquitted of the charges framed against them.

2. The case in brief as set up by the complainant may be noticed as thus; On 26.10.2013, a complaint was moved by the applicant-complainant (hereinafter referred to as 'complainant') against accused No.2-Suresh Rani, a teacher, alleging that she had obtained her job by using forged and fabricated certificates. Accused No.1-Darshan Jindal, a journalist, on account of the influence wielded by him, allegedly orchestrated the arrest of the complainant and got him subjected to police brutality on a number of occasions. Despite the complainant making earnest efforts including seeking recourse by approaching the State Human Rights Commission, the police failed to take

any action against the accused. On 20.08.2007, at around 5.00 pm when the complainant was at his residence, accused Darshan Jindal and Suresh Rani along with some unidentified person trespassed into his home and on entering the house of the complainant, both Darshan Jindal and Suresh Rani physically assaulted the complainant. The unidentified person also participated in the physical assault. On an alarm raised by the complainant, Bhushan Kumar and Megh Raj Kukku rushed to the rescue of the complainant and saved him from the accused. During the occurrence in question, the accused also extended threats to the complainant and while leaving declared that though he had been saved, they would not hesitate to harm him, if they got another opportunity. Thereafter, the complainant accompanied by the witnesses reported the crime to the police station, however, since no action was taken, he moved the complaint in question before the trial court.

3. The complainant during his preliminary evidence examined himself as CW-1 besides examining CW-2 Megh Raj and CW-3 Bhushan Pal. The Court, however, acquitted the accused of the charges framed against them under Sections 452, 323 and 506 IPC by holding that the complainant had failed to prove his case beyond reasonable doubt. Hence, the present application has been filed.

4. Learned counsel for the petitioner has reiterated the allegations levelled by him in his complaint. It has been asserted that the Court below had erred in acquitting the accused despite there being sufficient cogent evidence against them. It has also been submitted that the Court below failed

to take into consideration that the complainant had been beaten up by the accused.

5. Heard learned counsel and perused the relevant material on record.

6. Admittedly, as per allegations levelled by the complainant, the occurrence in question purportedly took place at his residence on 20.03.2007, however, no documentary evidence was produced during trial in support of his ownership of the place of occurrence i.e. his house, nor any records were produced by the complainant in support of his averment that on the fateful day, he was indeed residing in the said house. Furthermore, the complainant alleged being subjected to physical assault by the accused, however, admittedly, no medical record or any medico-legal report was produced to support the allegations of the complainant of being subjected to physical assault, which without a doubt, raises a big question mark about the version brought-forth by the complainant. Not only this, a number of other material inconsistencies also came to the fore as to whether the complainant along with the two witnesses Megh Raj and Bhushan Pal visiting the police station, following the occurrence in question. Though the complainant averred that he had been taking medical treatment from one Dr. Tarsem after the alleged assault, however, it surfaced during trial that said Dr. Tarsem had expired much prior to the occurrence in question. This fact further creates a huge dent in the case of the complainant and a big question mark is indeed raised qua the authenticity of his submissions of having been physically assaulted

much less of having received any injury. Undisputedly, there was a history of animosity between the parties as numerous complaints had also been made against each other. Hence, in the above background, this Court concurs with the observations made by the Court below that the reliability of the version brought-forth by the complainant could potentially be on account of some ulterior motive stemming from a history of their estranged relations thus, casting a shadow of doubt on the credibility of the complainant's version.

7. As a sequel to the above, the present petition being devoid of any merit stands dismissed.

8. Since the application for leave to appeal has been dismissed on merits, no separate order is required to be passed in the application for condonation of delay.

(MANJARI NEHRU KAUL)
JUDGE

14.09.2023
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No