



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-A-1996-MA-2016 (O&M)
Date of decision: September 2nd, 2024

Kuldeep Singh
.....Applicant

Versus

Rupaljit Kaur
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Harkirat Singh Randhawa, Advocate
for the applicant.

MANJARI NEHRU KAUL, J.

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Prayer in this application is for condonation of delay of
201 days in filing the application for leave to appeal.

For the reasons mentioned in the application, the same is
allowed.

Delay of 201 days in filing the application for leave to
appeal stands condoned.

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Applicant is impugning the judgment dated 05.02.2016
passed by the learned Judicial Magistrate 1st Class, Rajpura, whereby
respondent-accused has been acquitted of the charges framed against
her in complaint bearing No.COMI/661/2013 dated 04.10.2010 titled as
'Kuldeep Singh Versus Charanjit Singh and another' under Sections
452/447/427/34 of the IPC.

2. Learned counsel for the applicant contends that the trial
Court vide impugned judgment dated 05.02.2016 erred in acquitting the

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respondent of the charges framed against her under Sections 447/427/34 of the IPC. Learned counsel, while drawing the attention of this Court to the allegations levelled, has submitted that the case arose from a complaint lodged by the applicant; on 09.03.2010, at about 3:00 PM, Charanjit Singh (now deceased) and his daughter-in-law Rupaljit Kaur (respondent-accused) began demolishing a 30 year old wall belonging to the applicant. Charanjit Singh used crowbar to demolish the wall, while respondent-Rupaljit Kaur assisted by catching and throwing bricks to her side. It was also alleged that this was not the first instance of such attempts by the accused to demolish the wall. Despite multiple visits to the Police Station and repeated complaints, the authorities took minimal action, registering only a DDR No.13 on 15.03.2010. In the light of the inaction, the applicant was then compelled to initiate criminal proceedings under Sections 452/447/427/34 of the IPC. However, the respondents were only summoned to face trial under Sections 447/427/34 of the IPC, and notices of accusation were duly served.

3. Learned counsel has further argued that the trial Court had erred in concluding that the applicant had failed to establish the essential elements of criminal trespass under Section 447 of the IPC. It has further been argued that in the impugned judgment, the trial Court had relied on the applicant's admission during his cross-examination that the Panchayat had filed a petition under Section 7 of The Punjab Village Common Lands (Regulation) Act (hereinafter referred to as 'the Act') regarding the land on which the wall stood. Learned counsel contends that merely filing a petition does not negate the applicant's possession of the land. Moreover,

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the trial Court disregarded material evidence, particularly the order of the Divisional Deputy Director, Rural Development and Panchayat, Patiala (Exhibit P-6), and the order of this Court in CRM-M No.23605 of 2012 (Exhibit P-7). Both these documents clearly show that the case of the Panchayat under Section 7 had been dismissed vide order dated 22.05.2013, affirming the possession of the applicant of the disputed land.

4. Learned counsel has in addition also submitted that the trial Court had wrongly acquitted the respondents under Section 427 of the IPC on technical grounds i.e. prosecution had failed to prove that the damage caused exceeded ₹50/-. It was contended that the demolition of a long standing wall would have inevitably resulted in damage surpassing this amount of ₹50/-, which fact was ignored by the trial Court.

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

6. Several critical inconsistencies and inadequacies in the evidence presented by the applicant have come to light, which undoubtedly undermine the case of the prosecution.

7. Firstly, while the applicant during his testimony as CW-1, corroborated the allegations in the complaint, he also made an admission during his cross-examination that proved to be detrimental to his case. The applicant acknowledged that the Panchayat had previously filed a petition under Section 7 of the Act concerning the very land, where the disputed wall stood. The case preferred under Section 7 of the Act was decided in favour of the Panchayat, which indicated that the applicant may not have had legitimate possession of the land in question. This admission by the



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applicant considerably weakened his claim of ownership and possession, a key factor to prove criminal trespass under Section 447 of the IPC. Furthermore, the applicant was unable to refute that the Panchayat was declared the legal owner of the land, which further created a significant doubt as to whether the respondents could be held liable for trespass on property that may not have belonged to the applicant.

8. Secondly, the applicant's failure to call any witness to substantiate his version of events, despite his own admission that the area, where the wall stood, was densely populated further created doubt. The least that the applicant could have done was to present some independent corroboration about the alleged demolition, especially given the purported nature of the incident. The absence of corroborative testimony from individuals, who might have witnessed the demolition, raises serious questions about the veracity of the claims of the applicant.

9. Another significant omission pertains to the complaint of the applicant. The applicant, claimed during his deposition, that the wall had been demolished twice by the respondent, however, this crucial detail was conspicuously not mentioned in the original complaint filed by the applicant, which was a material inconsistency, undermining the credibility of the account of events given out by the applicant.

10. Additionally, during cross-examination of the applicant, it also emerged that the photographs of the place of occurrence i.e. the demolished wall, were not taken contemporaneously. The son of the applicant, who deposed as CW-3, who had taken the photographs, did not have in his possession the mobile phone or the memory card used to



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capture them, thereby rendering it impossible to authenticate the photographs as per the Evidence Act.

11. Still further, the alleged occurrence took place on 09.03.2010. However, the complaint was lodged only on 04.10.2010 i.e. nearly after seven months. There was no plausible reason brought forth regarding this abnormal delay. It needs to be pointed out that any inordinate delay in lodging of the complaint, though not always fatal, but does raise doubts about the genuineness of the allegations, and particularly in the facts and circumstances of the instant case.

12. Lastly, the applicant failed to prove his exclusive possession of the disputed land, and was also not able to dispute that the Panchayat had previously got a favourable verdict pertaining to the same land from a Civil Court.

13. As a sequel to the above, this Court does not find any merit in the instant application as evidently the evidence presented by the applicant before the Court below was marred by inconsistencies, insufficient corroboration and unexplained delays, all of which cumulatively contributed to the acquittal of the respondent.

14. The application stands dismissed.

September 2nd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No