

2024:PHHC:165981



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

**CRM-A-1367-MA-2017
Date of Decision: 23.09.2024**

RAMESH KUMAR**.....APPLICANT****VERSUS****STATE OF HARYANA AND ORS****.....RESPONDENT****CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Shiv Charan Bhola, Advocate
for the applicant.

Mr. B.S. Virk, Sr. DAG, Haryana

SANDEEP MOUDGIL, J

1. The appeal has been filed against the judgment of acquittal rendered by the learned Sub Divisional Judicial Magistrate, Pehowa, dated 07.02.2017, being passed in Criminal Complaint No.245 of 2013 under Section 323, 324, 452, 506, 34 IPC, Police Station Pehowa, District Kurukshetra, whereby the respondents No.2 to 8, have been acquitted by giving them the benefit of doubt.

2. Factual matrix of the case unfold that prior to the present complaint, the respondent-accused had beaten a lady, who was neighbourer of the applicant and at that time, his brother had saved her from the cruel clutches of the accused-respondent and since then they have developed enmity towards the applicant's family. On 12.02.2010, at about 9.30-10.00PM, the respondent-accused namely

Neeku Ram, Om Parkash, Pardeep Kumar and Deepak entered house of the applicant and started hurling abuses to his brother and started beating him. The respondent-accused attacked the applicant with with sharp weapon and gave danda blows on his legs and arms. Later he was even attacked by thronging bricks in the courtyard but after listening to their hue and cry, the accused-respondent fled from the spot and threatened to kill him and his family members. The police being in connivance with the respondent-accused did not take any action against them hence the present criminal complaint was filed which was dismissed arbitrarily which compelled the applicant to file this present appeal.

3. Counsel for the petitioner contends that the trial court has erred in acquitting the respondent-accused in an arbitrary manner at the point where the applicant had proved its case beyond reasonable doubt.

4. He further contends that the trial court failed to appreciate the evidence of CW-5 Dr. Sunita who had deposed that the applicant and his brother had received two injuries. Moreso, the trial court did not acknowledge the atrocity and the brutality with which the crime was perpetrated.

5. Per contra, learned counsel for the State has submitted that the judgment passed by the learned trial Court is a just and proper judgment and no fault can be found in it because the evidence led by the prosecution and the defence has been very well examined and determined by the learned trial Court to reach its conclusion. As such, the present appeal is liable to be dismissed, which has reached its just and proper fate.

6. Heard learned counsel for the respective parties and gone through the record.

7. This Court, after perusing the case file, is of the opinion that the trial Court has reached to its conclusion after examining and determining the entire evidence led by both the sides in its entirety.

Further, from perusal of the record it is evident that there were lot of contradictions in the testimonies of the applicant and other witnesses examined on behalf of the applicant and in fact the applicant party was the aggressor and they attacked the respondent-accused persons and a case was also registered against Ramesh Kumar being titled as State Vs. Ramesh Kumar (FIR No.51 dated 13.2.10 wherein the matter was compromised and Ramesh Kumar was acquitted) but at that time, the respondent-accused were not aware of the complaint which is the subject matter of this case and subsequently, Ramesh Kumar turned dishonest and continued with the present complaint.

8. CW-5 Dr. Sunita, further deposed in her cross-examination that possibility of injury on the person of Ram Gopal being self-suffered or by friendly hand cannot be ruled out. In this way, the medical evidence has not supported the case of applicant and injuries upon his person appears to be more serious than that of the applicant Ramesh Kumar.

9. Therefore, this Court does not find any illegality and ambiguity in the above observation of the learned trial Court that the applicant Ramesh Kumar has not complied with the terms and conditions of the Agreement arrived at between the parties. It does not make any sense that the applicant secured his acquittal on the basis of the compromise but backed out from the compromise to get other punished. As such, the applicant is liable to be dealt with iron hands because for himself, compromise needs to be complied with but for others, compromise is mere paper work.

10. Resultantly, this Court does not find any sense and justification to interfere with the findings of the learned trial Court for the above stated reason that the complainant/appellant after securing his acquittal in the FIR case, took U-turn and pursued the complaint case to get the opposite party, with whom he entered into compromise, convicted and sentenced.

11. Consequently, the present appeal fails being a clever move in violation of the settlement/compromise arrived at between the parties in FIR case and is hereby ordered to be dismissed.

23.09.2024
Meenu

(SANDEEP MOUDGIL)
JUDGE

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