

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

211

CRM-A-1700-MA-2015(O&M)

Date of order: 15.04.2024

Satpal Mehta

.....Applicant(s)

Vs.

Rajan & Others

.....Respondent(s)

CORAM: HON’BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. G.S. Simble, Advocate
for the applicant.

Ms. Aakanksha Gupta, AAG Punjab.

Ms. Tejinder Kaur, Advocate for
Mr. Vipin Mahajan, Advocate
for the respondents.

Nidhi Gupta, J.

Present application under Section 378(4) read with Section 482 Cr.P.C. is filed seeking grant of leave to file appeal against judgment dated 27.02.2015 passed by learned JMIC, Batala whereby private respondents herein have been acquitted in a complaint filed by the applicant under Sections 452, 379, 427, 323, 354, 304, 506, 148 and 149 IPC.

2. At oral request of learned counsel for the applicant, Memorandum of Parties is amended and State is made party respondent No.4 to the present application. Registry is directed to carry out necessary corrections at appropriate place(s).

3. Applicant before this Court is the complainant. Facts as stated by the applicant in the complaint are as under:-

“On 12.012.2007 at about 12:00 PM I along with my son Munish and my wife Sudarshana and daughter in law Mamta were present in the house. Our house is little behind from the main road. Accused Gopal Singh, Gurmail Singh, Sukhjinder Singh and Rajan and 15-20 unknown persons who were armed with rods. They all entered our gate of house and Gopal Singh raised a lalkara catch them and kill them. Accused persons started breaking household articles when my son went forward then Rajan gave iron rod blow to my son which hit on his left hand and Sukhjinder Singh snatched Rs. 10,000/- and one gold chain from him. All the accused persons gave slaps on the face of my wife and torn off her clothes. We raised raula and all the accused ran away along with their weapons after giving threats us. We reported the matter to police but no action was taken so I have filed this complaint. Action be taken”.

4. Learned counsel for the applicant inter alia submits that it has been duly proven on record that the private respondents forcibly entered the house of the applicant and broke the household articles, caused injuries to Munish Mehta (CW3)/son of the applicant and snatched gold chain and Rs.10,000/- from CW3; did indecent act with Sudarshana Mehta (CW2)/wife of the applicant, and also slapped her and torn off her clothes. Accordingly, offences punishable under Sections 452, 379, 427, 323, 354, 304, 506, 148 and 149 IPC are clearly made out. Therefore, learned JMIC, Batala is in patent error in acquitting the accused. It is further submitted that the learned trial Court has failed to appreciate the evidence on record in the correct perspective.

5. Learned counsel further submits that the applicant/complainant along with CW1 and CW2 has testified to the truth of the above said allegations, which evidence has been ignored by the learned trial Court. It is further submitted that the learned trial Court has incorrectly recorded that there was no motive on part of the private respondents to assault the applicant and his family. This is incorrect as it was the case of the applicant before the learned trial Court that the applicant and his family had not accepted the leadership of accused Gopal Singh Bedi/respondent No.3 herein and it was for this reason that the applicant and his family had been assaulted.

6. No other argument is made on behalf of the applicant.

7. I have heard learned counsel for the applicant and perused the case file in detail.

8. Perusal of record of the case shows that in preliminary evidence, the applicant/complainant stepped into the witness box as CW1; his wife/victim/Sudarshana Mehta as CW2; and his son Munish Mehta as CW3; Dr. Amandeep Singh as CW4. On the basis of the evidence led by them, learned trial Court summoned the accused under Sections 323, 354, 379, 427, 452 and 34 IPC; and thereafter, charges were framed under the said Sections against the accused. After examining the entire evidence on record as also the statements of all the witnesses, learned trial Court has given the following findings:-

“11.....Further from the perusal of the file, it reveals that alleged occurrence took place on 29.12.2007 and further MLR of Munish Mehta was conducted on 1.1.2008. Since there is

delay of three days in got conducting the medico-legal-examination and further complainant remained silent about the said delay and further Munish Mehta in his statement has stated that he admitted the hospital on the same day, whereas medico-legal-examination was conducted after three days. So, version of the Munish Mehta that he got herself admitted in the hospital on the same day also falsified the version of the complainant. Further from the perusal of the file, it reveals that it is an admitted fact that accused persons having good reputation in the society and further accused Gopal Singh is Sarpanch of the village and further said Gopal Singh became the Sarpanch for the second time and further from the perusal of the file, it reveals that no motive has been mentioned by the complainant in respect of the alleged occurrence. Since no motive has been mentioned by the complainant, so this Court is of the considered opinion that person who has good reputation in the society never committed such an offence and further they will never snatched Rs. 10000/- and golden chain as alleged by the complainant, since the complainant has not come in the court with clean hands. Further he tell lie and further he tried to mislead the court also. So, this court is of the considered opinion that complainant at all not proved his version. Further accused persons have successfully proved their innocence. So, accordingly, complaint of the complainant is hereby dismissed with costs of Rs. 2000/- and accused persons are acquitted from the charges levelled against them. The accused persons and sureties be discharged of their bonds and file be consigned to the record room, Batala.”

9. It is the categoric allegation of the applicant that the accused entered his house armed with iron rods. It has also been alleged that the son of the applicant was attacked by the accused with the iron rod.

However, admittedly, no medical evidence whatsoever has been produced

by the applicant to prove infliction of any injury. There is even no explanation for delay of three days in conducting the MLR. On the contrary, there is apparent contradiction in the statement made by the applicant CW1 and his son CW3. Moreover, the above-reproduced complaint indicates no motive on part of the accused. Learned counsel for the applicant is unable to dispute or controvert the above said findings.

10. In view of the above, I find no merit in the present application and the same is accordingly, **dismissed**.

11. Pending application(s) if any also stand(s) disposed of.

15.04.2024

Sunena

(Nidhi Gupta)

Judge

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