

CRM-A-2005-MA-2015

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219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-2005-MA-2015 (O&M)

Date of decision: 16.01.2024

MANOHAR SINGH

...Applicant-Appellant

V/s

SOHAN SINGH AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: None for the applicant/appellant.

HARPREET SINGH BRAR J. (ORAL)

1. This instant application under Section 378(4) CrPC is preferred against the judgement dated 02.05.2015 passed by learned Judicial Magistrate Ist Class, Zira vide which the criminal complaint No.9-1/27.01.2012 filed under Sections 326, 324, 323, 148, 149 of the Indian Penal Code, 1860 (hereinafter referred as IPC) by the applicant has been dismissed.

2. The present application for grant of leave is pending since the year 2015. A perusal of the interlocutory orders passed by this Court on several dates, would indicate that there is no representation on behalf of the applicant since 15.12.2018. On 02.06.2022, this Court directed the registry to inform learned counsel for the applicant regarding the pendency of the case. Office report indicates that learned counsel for the applicant-appellant has been informed about the date fixed through e-mail. In spite of the same, no one has put in appearance on behalf of the applicant-appellant, either on 10.02.2023 or on 12.09.2023. Facing with such a situation, this Court proceeds to decide the case on merits.

3. The minimal facts as necessary for disposing this application are that on 19.06.2011 a scuffle qua irrigation motor connection took place between the applicant and respondent no.5 due to which the respondents ambushed the applicant on his way back home. While respondent no.1, 2 & 5 were armed with Gandassas(Axes), respondent no.3 was armed with brick-stone and respondent no.4 was armed with a stick. When respondent no.6 stopped the applicant while shouting that a lesson is to be taught to him, all respondents together caused injuries on the person of the applicant. When the applicant raised hue and cry about the beatings, his brother Lohara Singh came to the spot and saved him while the respondents fled away from the spot with their respective weapons. The applicant was then taken to Civil Hospital Lohian by his nephew, where he was referred to Civil Hospital, Makhu and then Civil Hospital, Ferozepur. The statement of the applicant was recorded by the Police whereby, DDR under Sections 324, 323, 148, 149 of IPC dated 21.06.2011 was registered but no further proceedings were initiated by the police. The applicant received his X-ray report in which injuries No.4 & 5 were declared grievous but the Police did not add an offence under Section 326 IPC. Aggrieved by the same, the applicant filed the above-mentioned complaint.

4. After perusing the record pertaining to present case, it is clear that the conduct of the applicant has been doubtful from the very beginning. The fact regarding the time of occurrence of the alleged offence appears to have been modified by the applicant in his complaint. Further, there is a clear delay of 2 days in informing the police about the incident while the

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applicant kept on roaming from one hospital to another unlike a reasonable person. No document except 'refer slip' regarding doctor's referrals has been place on record by the applicant. Therefore, the learned trial Court has correctly observed that there are no sufficient grounds to proceed against the respondents and hence, the above-mentioned judgement passed by the learned trial Court stands validated.

5. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. **(See H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415).** A Division bench of this Court in the judgment passed in **State of Haryana Vs. Ankit and others CRM-A No.3 of 2022 decided on 06.07.2023** has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

6. In view of the facts and circumstances of the case, this Court finds no perversity or illegality in findings recorded by the learned trial Court which warrants interference by this Court. As such, there is no merit in the present application and hence, the leave to appeal is denied.

7. Consequently, CRM-40616-2015, seeking condonation of delay of 137 days, also stands dismissed.

(HARPREET SINGH BRAR)
JUDGE

16.01.2024
Ajay Goswami

Whether reasoning given	Yes/No
Whether reportable	Yes/No