



CRM-A-615-MA-2018

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

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CRM-A-615-MA-2018

Date of decision: 16.01.2025

Ramesh Kumar

....Applicant

V/s

Satnam Singh Arshi and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. J.S. Thind, Advocate for the applicant.

SUMEET GOEL, J. (Oral)

1. Present application has been filed under Section 378(4) of Code of Criminal Procedure seeking leave to file an appeal against order dated 05.12.2017 passed by learned Judicial Magistrate Ist Class, Phagwara whereby respondent No.1 (herein) was acquitted from the charges levelled against him under Sections 506, 447 of Indian Penal Code, 1860 (hereinafter to be referred as 'IPC') in a complaint case.

2. For clarity and simplicity, the complainant-applicant, who has filed the complaint in question, will be referred to as the 'complainant' while respondent No.1, the accused in the complaint in question, will be referred to as the 'accused' throughout this judgment.

3. The pertinent facts for adjudication, in the instant application, are that a complaint was registered against the accused based on the statement of complainant namely Ramesh Kumar Gupta, aged 58 years, s/o Amar Nath Gupta, resident of Panj Mandri Road, Mehil Gate, Phagwara, District Kapurthala. He alleged that he is the owner of building consisting of three rooms, one shed, one bhatti cupla and one Hall on the backside and

open space in the building under the name and style as Ramesh Industrial



Corporation, situated on G.T. road, in the area of village Chack Hakim, Phagwara. It was averred by the complainant that he is doing the business of iron castings in the factory but closed his business in the year 1981 and put the material worth Rs.1,53,965/- in a hall and was locked by the complainant. It was alleged by the complainant that respondent No.1-Satnam Singh Arshi had taken a room and one bhatti cupla on rent for Rs.2500/- per Bhatti and about 4 bhattis were being run by respondent No.1 in a month and hence the total rent comes to Rs.10,000/- per month. It was further pleaded that on 12.12.2003, a dispute arose between the complainant and accused-respondent No.1 regarding the rent. Accordingly, the complainant as well as respondent No.1 filed their respective complaints to the police. However, both the complaints filed were later withdrawn with the intervention of the respectable. It was further alleged that the material lying in the hall of the company of the petitioner namely Ramesh Industrial Corporation now Ramandeep Industrial Corporation was stolen by the accused who forcibly broke open the locks and stole the material lying in the hall. The complainant alleged that he had approached the Police to register the case of theft and threats extended by the accused but the Police flatly refused to take any action which necessitated the applicant to file the instant complaint. The learned Judicial Magistrate Ist Class, Phagwara concluded the same vide its judgment dated 05.12.2017; acquitting the accused (respondent No.1 herein) of all the charges. The Court below held that the prosecution has miserably failed to prove the guilt of the accused beyond shadow of reasonable doubt & hence the accused-respondent No.1 ought to be acquitted by giving them the benefit of doubt.



4. The applicant-complainant, aggrieved by the findings of the Court below, has now invoked the jurisdiction of this Court, seeking re-examination of the findings as the same are based on alleged misappreciation of evidence and procedural irregularities.

5. Learned counsel for the applicant-complainant has iterated that the Court below has erred in acquitting the accused-respondent No.1 and the impugned order is contrary to the law, facts and evidence on record. According to the learned counsel, the Court below has gravely erred in not appreciating the evidence led by the prosecution and acquitted the accused on untenable grounds. Learned counsel has further iterated that the applicant-complainant has provided consistent and uniform statements throughout the proceedings. Furthermore, the testimony of the complainant remains conclusive and credible, as it has not been demolished by the defence during cross-examination. Learned counsel asserts that the applicant has produced oral and documentary evidence against the accused and the Court below has misread the evidence and did not appreciate the fact in correct perspective. Learned counsel has further canvassed that the Court below has wrongly acquitted the accused, despite there being sufficient evidence on record to establish his guilt and hence their acquittal is not justified in light of the evidence presented.

6. I have heard learned counsel for the applicant-complainant and perused the available record.

7. At the outset, it is pertinent to mention herein that in adjudicating an appeal against an order of acquittal, the appellate Court operates within a narrowly circumscribed framework. It is a settled legal



further strengthened by the trial court's findings. The appellate Court is requested to be cautious while engaging in a wholesome reappreciation or assessment of evidence unless the conclusions drawn by the trial Court are patently perverse, unreasonable, or unsupported. The principles governing the scope of interference by the High Court in an appeal against the judgment of acquittal, have been laid down by the Hon'ble Supreme Court in the judgment passed in the case titled as ***Babu Sahebagouda Rudragoudar and others versus State of Karnataka, 2024 INSC 320 = 2024(2) Law Herald (SC) 928*** held as under:

“39. Thus, it is beyond the pale of doubt that the scope of interference by an Appellate Court for reversing the judgment of acquittal recorded by the trial Court in favour of the accused has to be exercised within the four corners of the following principles:-
(a) That the judgment of acquittal suffers from patent perversity;
(b) That the same is based on a misreading/omission to consider material evidence on record;
(c) That no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.”

Thus, the present application seeking leave to appeal must be examined in context and after drawing guidance from the aforementioned principles.

8. While going through the records of the case, it appears that the complainant has failed to satisfactorily discharge the burden of proof by presenting credible and reliable evidence or witnesses. It is a well-settled principle of law that the burden rests upon the prosecution to establish the guilt of the accused through cogent and convincing evidence, and any failure to do so entitles the accused to the benefit of doubt. The case put forth by the



prosecution is riddled with material discrepancies, as discussed below, that substantially undermine its credibility and foundational strength.

9. At the outset it will be apposite to consider the main thrust of the complaint as revealed from the evidence on record for deciding the culpability of the accused in the incident in question. A perusal of the record reflects that the complainant initially filed a complaint before the Court below against the accused, which was dismissed on 31.01.2012. The complainant challenged the same by filing a revision and the complaint was remanded back by the Sessions Judge, Kapurthala, on 10.04.2013. Thereafter, the accused was summoned only under Sections 447 and 506 IPC, while charges under Sections 379, 406, 420, and 34 IPC were dismissed, which the complainant did not challenge. After pre-charge evidence, charges under Sections 447 and 506 IPC were framed on 20.08.2016. The revision of the complainant against the order dated 20.08.2016 was dismissed on 25.09.2017.

10. The complainant further alleged that he had rented a room and bhatti cupla to the accused in the year 1998 without a written agreement and stated that the accused had paid the rent until March 2001. He also claimed that the accused restricted his access to the property and threatened him but failed to provide any corroborating evidence or examined any key witnesses like Kesar Singh. The complainant, besides from his own testimony, had failed to provide any additional evidence to substantiate his claim of theft. He admitted in his complaint that he had rented out one room and a bhatti cupla to the accused in the year 1998 for ₹2,500 per bhatti and about four bhattis were being run by the said accused and the total monthly rent comes



acknowledged the leasing of the property in the year 1998 but could not recall the exact date or month and confirmed that no rent deed was prepared. He stated that the property was leased specifically for running a bhatti and described the room as measuring approximately 11½ x 11½ feet. Furthermore, the complainant admitted that no fresh site plan was submitted with the complaint and only a previously prepared plan was on record. He further stated that, except for one room and one bhatti, the property remained in his possession. However, the complainant did not file a civil suit to restrain the accused from accessing the property. He also revealed that, on 12.12.2003 the accused had filed a theft complaint against him which was based on suspicion. However, later both the parties had reached a compromise on 17.12.2003. The complainant had further acknowledged that police inquiries in the year 2007 and 2010 resulted in cancellation reports and that he did not provide evidence or witnesses during the investigations. He also confirmed that the property had been rented until March 2001, with a monthly rent of ₹2,500 for one room. From the testimony of the complainant, it is evident that the complainant had admitted renting out the property to the accused in the year 1998 and failed to examine any witnesses to support his allegations. Hence the complainant had failed to prove the guilt of accused beyond a reasonable doubt. Moreover, the evidence presented by the complainant was contradictory and unsubstantiated and rendering his allegations inconsistent and hence the benefit of the same be given in favour of the accused. In the considered opinion of this Court, these inconsistencies and contradictions cast serious doubt on the credibility of the version of the complainant.



11. Furthermore the complainant has mentioned that on 16.01.2014, when he alongwith Kesar Singh went to seek their material in the hall at that time the accused allegedly prevented him from entering the premises and threatened him. However, he had failed to provide any corroborating evidence in support of his pleadings. Moreover, the complainant has also not examined the eye-witness namely Kesar Singh to corroborate his testimony. The Court below found that since the accused was already in possession of the property, the claim of criminal trespass does not arise, and the charge of criminal intimidation remains unsubstantiated due to a lack of supporting evidence. In criminal jurisprudence, the failure to secure independent testimony, when available, is a glaring procedural lacuna that erodes the foundation of a fair trial. The failure to examine the independent witnesses and the contradictions in testimonies significantly weakened the case of the prosecution.

12. In the considered opinion of this Court, the lack of evidence and the absence of corroborative evidence raise serious doubts about the credibility of the allegations. The contradictions in the statements of the complainant, along with the absence of documentary evidence, suggest that the allegations raised against the accused are not as severe as have been portrayed by the complainant. The glaring inconsistency between the testimonies of the complainant introduces a material contradiction, which directly impacts the case of the complainant. Such discrepancies cannot be lightly overlooked as they strike at the very root of the complainant's narrative and reliability of the evidence presented. In criminal jurisprudence, where the burden of proof lies squarely on the complainant to establish the



complainant significantly undermine the ability of the prosecution to prove the charges conclusively and potentially warranting an acquittal by giving the accused the benefit of doubt. Moreover, there is no reasonable explanation forthcoming either from the evidence produced by the complainant or records of the case or from the averments made in the present petition, on this aspect.

13. In the instant case, the lack of specific allegations and evidence renders it impossible to establish the elements necessary for prosecuting the accused under this provision. In the considered opinion of this Court, in the absence of credible material on record, the Court below has rightly concluded that the essential ingredients required to prove these offences were not satisfied, resulting in the dismissal of the charges. These material contradictions significantly undermine the case of the prosecution and it fails to meet the stand of proving the guilt beyond a reasonable doubt and casts a significant element of doubt regarding the alleged incident in question and potentially weakened the case of the prosecution.

14. It is a well-established principle in criminal jurisprudence that the burden of proof rests squarely upon the complainant, which must establish the guilt of the accused beyond reasonable doubt. Any failure to meet this standard, particularly when key evidence is either missing or questionable, entitles the accused to the benefit of doubt. It has been consistently held that suspicion, however grave, cannot substitute for proof, and where there exists any reasonable doubt, the benefit of such doubt must be given to the accused and he must be acquitted in accordance with law. In light of the above discussed discrepancies and inconsistencies, it can be



no evidence of the alleged incident as projected by the complainant. Where the complainant himself has failed to substantiate his case beyond reasonable doubt, as has happened in the case in hand, the defence, if any, raised/pleaded by the accused recedes into the background and rather becomes immaterial. In the instant case, the prosecution has miserably failed to discharge its liability. The eagerness of the complainant to implicate the accused through vague and general accusations further indicates a possible attempt to implicate him, regardless of his actual participation/involvement, in an effort to harass him.

15. In the facts and circumstances of the entire case coupled with the presence of multiple inconsistencies in the case, the learned Court below, has rightly arrived at the conclusion that the story put forth by the complainant was false and the allegations raised lack substance. The facts of the case clearly narrate that the complainant has tried to conceal the real genesis of the case. However, the Court below has meticulously and judiciously examined the matter, appreciating the facts and evidence in the proper context. The Court below has rightly discerned the attempt of the victim to distort the narrative and has delivered the findings based on through evaluation of the material on record.

16. A perusal of the impugned judgment of acquittal passed by the Court below shows that the entire evidence led by the prosecution has been gone through in detail and in a painstaking manner and has dealt with each and every aspect of the case in a pragmatic manner. The judgment of acquittal is based on sound reasoning; does not suffer from any illegality or perversity. As such, the judgment of acquittal dated 05.12.2017 passed by



interference. Resultantly, the present application seeking grant of special leave to file an appeal does not survive and the same is hereby dismissed.

17. Pending application(s), if any, shall also stand disposed off.

(SUMEET GOEL)
JUDGE

January 16, 2025
Ajay

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