

CRM-A-2340-2019 (O&M)

-1-

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

**CRM-A-2340-2019 (O&M)
Date of Decision: 15.01.2025**

JAGMAL SINGH

...Applicant

V/S

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rahul Vijay Singh Chugh, Advocate
for the applicant.

Mr. Nitesh Sharma, DAG Punjab.

Mr. Rinky Gupta, Advocate for
Mr. S.S. Sarwara, Advocate for respondents No. 2 to 9.

HARPREET SINGH BRAR J. (Oral)

1. The present application is preferred under Section 378(4) of the Cr.P.C. against the judgment of acquittal dated 04.09.2019 passed by learned Additional Chief Judicial Magistrate, Mansa in complaint bearing No. 85 dated 28.07.2016 filed under Sections 323, 324, 325, 341, 379-B, 34 of IPC at Police Station City Mansa.

2. Brief factual matrix of the present complaint is that complainant was resident of ward No.1 near D.C. residence, T-point Mansa and was doing work of committee of cash amount. Makhan Ram resident of Tnuthian wali road Mansa had also started a committee with him. On 26.05.2016 when complainant went to Makhan Ram for collection of installment of his committee at Thuthian Wali Road Mansa, all the accused persons i.e. respondents No. 2 to 9 herein, were already present there.

Complainant was talking with Makhan Ram while sitting outside the Jhugi

**CRM-A-2340-2019 (O&M)****-2-**

of Makhan Ram. All the accused with common intention started abusing complainant. Respondent No. 9-Gango Devi gave brick blow towards complainant and complainant saved himself. In the meantime, all the accused started beating complainant with kicks and fists. Resultantly, complainant fell down and accused gave kick blows to complainant. Respondents No. 7,8 and 9 gave beatings on back of complainant with bricks. Respondent No. 4 snatched Rs.3000/- from pocket of shirt worn by complainant. Respondent No. 4 snatched mobile phone of complainant from pocket of his pant. Complainant raised alarm 'Marta-Marta' responding to which Jeev Raj, Gopy Ram, Raju and other people gathered at the spot who saved the complainant and accused fled away from the spot by threatening complainant to kill. Jeev Raj took the complainant to his house. Next day, due to injuries on his back, complainant alongwith Jeev Raj went to Civil Hospital Mansa, where he was admitted and he got his injuries X-rayed and obtained treatment. He remained admitted there from 27.05.2016 to 02.06.2016. His statement was also recorded by the police in Civil Hospital Mansa and he was assured by the police for action against accused persons. After his discharge from hospital, complainant visited the police station City II Mansa and on inquiry he came to know that police had discharged other accused persons and instituted a Kalendra only against respondents No. 2 to 4, on which complainant moved application before SDM Mansa for taking action against remaining accused and the same application was sent to police station City II Mansa but police did not take any action and refused to do so. Hence the present complaint.

**CRM-A-2340-2019 (O&M)****-3-**

3. Having heard the learned counsel for the applicant and after perusing the record of the case with his able assistance, it transpires that learned Court below has opined that the present complaint has been preferred with the averments that the accused persons inflicted injuries on the person of complainant-Jagmal Singh, when he had gone to collect kitty money. But a strong dent has been created in this case when the evidence is read in totality as witness Gopi Ram in cross-examination stated that Jagmal had not sustained any injury and he was not taken to the hospital. He further submitted that Jagmal Singh told him that accused snatched Rs. 3,000/- from him and no such occurrence took place in his presence. Ram Singh Security Guard stated that accused caused injuries on the complainant by means of bricks and kick blows and even snatched his mobile phone and cash amount. But during his cross-examination, he stated that complainant was not taken to hospital by him or in his presence. He further stated that he was not known to accused persons previously. Thus, both the witnesses totally refuted the version of the complainant qua him being hospitalized after the occurrence. Though, the complainant tendered into evidence the medical record, but the said documentary evidence has not been proved by examining the medical witness. Thus the version of the complainant qua sustaining injuries came under a strong shadow of doubt. Thus, after taking into consideration all the evidence available on record, learned trial Court has rightly dismissed the complaint filed by the complainant-Jagmal Singh.

4. 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

**CRM-A-2340-2019 (O&M)****-4-**

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** passed 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.

5. In view of the facts and circumstances of the case, this Court finds that learned counsel for the applicant-appellant has failed to point out any 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.

6. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

15.01.2025
Ajay Goswami

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