

Crm No.A-919-ma of 2014 Vs. Crm No.A-919-ma of 2014

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Court : Punjab and Haryana

Decided On : Jul-28-2014

Appellant : Crm No.A-919-ma of 2014

Respondent : Crm No.A-919-ma of 2014

Judgement :

CRM No.A-919-MA of 2014 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CRM No.A-919-MA of 2014 Date of Decision: July 28, 2014 Gulshan Vinayak ...Applicant versus Kewal Krishan and others ...Respondents CORAM: HON'BLE Mr.JUSTICE ASHUTOSH MOHUNTA THE ACTING CHIEF JUSTICE HON'BLE Mr.JUSTICE KULDIP SINGH Present: Mr.G.C.Shahpuri, Advocate for the applicant.

*** Kuldip Singh J.

Gulshan Vinayak, complainant has filed this appeal against judgment dated 17.04.2014 passed by learned Addl.

Sessions Judge, Yamuna Nagar at Jagadhri, vide which his complaint filed against the accused for the offence under Sections 148, 323, 506 and 307 read with Section 149 IPC was dismissed.

Along with the appeal an application under Section 378(4) Cr.P.C.has also been filed for grant of leave to appeal.

The story disclosed by the complainant in his complaint is that on 09.09.2006 at about 6.00 p.m., he was going in his car towards Jyoti Palace, Yamuna Nagar.

All the accused while forming unlawful assembly came there.

They followed the complainant and waylaid him near Sawhney Hospital, Yamuna Nagar.

He was pulled out of the car and beaten up.

Accused Dev Raj kicked the complainant with great force on his testicles.

All the other accused also surrounded him to cause fatal injuries.

On the alarm raised by SARITA RANI201408.07 10:59 I attest to the accuracy and integrity of this document Chandigarh CRM No.A-919-MA of 2014 -2- the complainant, two persons, namely Manmohan and Devinder reached there and rescued the complainant from the clutches of the accused.

While leaving, accused threatened to eliminate the complainant.

The complainant was taken to the hospital for medical treatment.

After the summoning of the accused, they were charge- sheeted under Sections 148, 323, 307 read with Section 149 and 506 IPC and to which they pleaded not guilty.

Thereafter, the complainant led the evidence.

In the statement under Section 313 Cr.P.C., accused pleaded as under: the complainant is habitual of filing false criminal case.

A case under section 302 IPC was registered against him regarding murder of his own father in which he was convicted.

Accused Dev Raj and Kewal Krishan were the prosecution witnesses in the said.

The complainant earlier also got registered a false case under section 307 IPC against accused Dev Raj, Kewal Krishan, Vidya Sagar and two more persons, namely, Naveen and Vikas in which all the accused implicated by him were acquitted.

The appeal filed by the complainant against that judgment was also dismissed.

Even, the civil suit filed by the complainant against that judgment was also dismissed.

Even, the civil suit filed by the complainant against Vidya Sagar was also dismissed by the lower court as well as by the appellate court.

He is having grudge against all the accused persons.

Complainant also got published SARITA RANI201408.07 10:59 I attest to the accuracy and integrity of this document Chandigarh CRM No.A-919-MA of 2014 - 3- defamatory news against Vidya Sagar and Dev Raj regarding which a case was registered against him, in which he as well as his other co-accused were convicted.

Many cases were registered against the complainant in police station Bilaspur and he was declared as a history sheeter by the police and has been convicted in several cases by different courts.

The present complaint case has been filed by the complainant just to harass them.

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Accused also examined witness ASI Suresh Kumar as DW1 and produced some copies of the judgments.

After hearing learned Public Prosecutor for the State assisted by learned counsel for the complainant, learned counsel for the accused and going through the evidence, learned Addl.

Sessions Judge, Yamuna Nagar at Jagadhri dismissed the complaint and acquitted all the accused.

Against the said acquittal, the complainant has filed the present appeal and application under Section 378(4) Cr.P.C. for grant of leave to appeal.

We have heard learned counsel for the complainant- applicant on application as well as on merit and have also perused the copy of the judgment.

As per the case of the complainant, accused Dev Raj had given kick blow on testicles of the complainant and other accused also gave fatal injuries.

To prove the said injuries, the complainant examined Dr.

D.D.Sawhney.

The only witness examined in this case was found to be driver of Dr.

D.D.Sawhney.

The complainant SARITA RANI 201408.07 10:59 I attest to the accuracy and integrity of this document Chandigarh CRM No.A-919-MA of 2014 -4- remained admitted almost for a week in a children hospital of Dr.

D.D.Sawhney called Sawhney Hospital.

There are eye witness of the occurrence, namely, Manmohan and Devinder, who were examined in pre-charge evidence but they were not examined after charge.

The medico legal examination done by Dr.

D.D.Swahney of Sawhney Hospital, which is in fact a hospital for children.

Dr.

D.D.Swahney is a child specialist but is not specialist in injuries alleged to be given to the complainant.

The complainant concealed that he was on friendly terms with Dr.

D.D.Sawhney since 1994-95.

It comes out that the complainant remained admitted in children hospital of a friendly doctor.

He did not go to the Civil Hospital.

No record regarding bed head ticket etc.or any treatment record of the complainant was produced.

It also comes out that there is a previous history of litigation between the parties regarding which judgments/documents Exs.DA to DM were produced.

The plea of the accused is that they have been falsely involved and the occurrence is concocted.

The trial court vide judgment dated 25.08.2009 Ex.DA observed that the present complainant was convicted under Section 302 IPC.

Kewal Krishan and Dev Raj accused in the present case had appeared as prosecution witnesses.

The copy of judgment dated 31.03.2009 Ex.DB titled as State versus Gulshan Vinayak.

shows that in the case pertaining to FIR No.208, dated 11.05.1992 under Sections 323, 307 and 506 IPC, the complainant was convicted under Sections 323, 308 and 506 IPC.

The copy of judgment dated 02.02.2005 Ex.DC titled as State versus Malak Singh etc.

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shows that SARITA RANI 201408.07 10:59 I attest to the accuracy and integrity of this document Chandigarh CRM No.A-919-MA of 2014 -5- the complainant had lodged a criminal case against present accused Kewal Krishan, Dev Raj and Vidya Sagar and the accused were acquitted.

As per copy of judgment dated 21.12.2009 Ex.DD, titled as State versus Rajiv Narang and others., the complainant, was convicted under Section 500 IPC.

The said complaint was filed at the instance of the present accused.

The trial court has also similarly referred to some other judgments regarding criminal cases between the parties.

It being so, the general allegations, not supported by the medical evidence, can be easily levelled.

The complainant procured the services of his friendly doctor but did not go to the Civil Hospital.

He got himself admitted in the children hospital belonging to Dr.

D.D.Sawhney.

It shows that injuries were non-serious in nature.

The reasoning given by the trial court is very sound.

The view taken by the trial court is one of the possible views.

Therefore, there is no illegality or perversity in the impugned judgment.

Accordingly the present application filed under Section 378(4) Cr.P.C.for grant of leave to appeal is dismissed.

Consequently, the appeal also stands dismissed.

(ASHUTOSH MOHUNTA) (KULDIP SINGH) ACTING CHIEF JUSTICE JUDGE
July 28, 2014 sarita SARITA RANI201408.07 10:59 I attest to the accuracy and integrity of this document Chandigarh

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