

(2010) 04 P&H CK 0134

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Surjan Singh

APPELLANT

Vs

Niranjan Singh

RESPONDENT

Date of Decision: April 22, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 378
- Penal Code, 1860 (IPC) - Section 321, 323, 355, 499, 504

Hon'ble Judges: Sabina, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Sabina, J.

Complainant-appellant Surjan Singh filed a complaint under Sections 321/355/499 of the Indian Penal Code (IPC for short) against respondent Niranjan Singh. The appellant led his preliminary evidence and thereafter, the respondent was summoned to face trial under Sections 323/504/506 IPC. The appellant then led his pre charge evidence. Charge was framed against the respondent u/s 355 IPC. Thereafter, vide impugned judgment dated 3.11.2006, Chief Judicial Magistrate, Ist Class, Jagadhari acquitted the respondent of the charge framed against him. The appeal filed by the complainant was also dismissed vide judgment dated 5.3.2008 passed by the Additional Sessions Judge, Yamuna Nagar at Jagadhari being not maintainable. Hence, the complainant has filed the present application u/s 378(4) of the Code of Criminal Procedure with a prayer for grant of leave to file an appeal against the orders mentioned above.

2. The case of the complainant, as noticed by the trial Court in para No. 1 of its judgment, reads thus:

The present complaint has been filed by the complainant for summoning the accused under the provisions of Sections 321/355/499 IPC. It is stated that the

complainant, who is a resident of Jagadhri, is licence holder as contractor A Class Electrical from the Government of Haryana. In order to get his Ration Card No. 923713 assigned to M/s Anil Kumar Mam Chand, the complainant visited the office of Food and Civil Supplies located in Anand Market, Civil Lines, Jagadhari at about 4.00 p.m. On 15.2.1996. It is alleged that the accused who was already present in the office of Food and Supplies, suddenly attacked the complainant and caught hold of him by his neck. Thereafter, he began to shower filthy abuses and treated the complainant roughly. It is stated that the accused was about to give fist blow and kicks to the complainant when Civil Supply Inspector Avinash Verma, Jai Pal from Hind Furniture, Gurdial Singh and S. Gurcharan Singh Officer, Education Department intervened and separated accused from the complainant. Thereafter, the complainant left the office and as he was leaving accused threatened him with dire consequences in case he ever dared to speak about the help rendered by complainant to Smt. Dayal Singh in settling up her business of kerozene and L.D.O. etc. It is stated that the complainant had never claimed any contribution in the business of the mother of accused. It is further stated that there was no reason or occasion for the accused to assault the complainant. The complainant moved an application to the Superintendent of Police, Yamuna Nagar on 17.2.1996 but no action was taken by the police. Hence, the present complaint.

3. After hearing learned Counsel for the appellant, I am of the opinion that the present appeal deserves to be dismissed.

4. Learned trial Court has acquitted the respondent of the charge framed against him on the ground that the eye witness Jaipal Singh had not supported the case of the complainant-appellant. There was un-explained delay in filing the complaint. The occurrence had taken place in the evening on 15.12.1996, whereas, the complaint was filed on 17.2.1996. It has further been observed by the trial Court in the impugned judgment that a perusal of Ex.D-1, judgment passed in appeal titled as Surjan Singh v. Smt. Dayal Kaur, showed that the appellant-complainant had been harassing the mother of the respondent since long claiming himself to be a partner in the agency of kerosene oil, which had been allotted to the mother of the respondent being war widow. Since the complainant had been unable to prove his partnership, due to frustration he had filed the present complaint. The complainant did not ever get himself medically examined on the day of occurrence. In these circumstances, the reasons given by the trial Court, while acquitting the respondent of the charge framed against him, are sound reasons.

5. Their Lordships of the Supreme Court in Allarakha K. Mansuri v. State of Gujarat 2002 (1) RCR (Criminal) 748, held that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court.

6. A Division Bench of this Court in State of Punjab v. Hansa Singh 2001 (1) RCR (Criminal) 775, while dealing with an appeal against acquittal, has opined as under:

We are of the opinion that the matter would have to be examined in the light of the observations of the Hon"ble Supreme Court in [Ashok Kumar Vs. State of Rajasthan](#), , which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.

7. Learned Counsel has failed to show any mis-reading of evidence on record. No ground is made out to grant leave to file an appeal.

8. Accordingly, this application is dismissed.