

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

Crl. Revision No.175 of 2004

Date of decision : 04.02.2015

Balwant Singh

...Appellant

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Navjot Singh, Advocate, Amicus Curiae,
for the petitioner.

Mr. C.S. Bakhshi, Addl. AG., Haryana.

RITU BAHRI, J.

Challenge is to the judgment of dated 09.09.2003 passed by the Sessions Judge, Bhiwani, whereby the accused-Jagdish and Bhim Singh have been acquitted of the charges framed against them and only Hari Singh was convicted under Section 436 IPC.

Brief facts of the case are that on 31.01.2000, HC subhash Chander along with other police officials was present at bus-stand of village Mori. In the meantime, Balwant Singh-complainant (petitioner) met him and gave a written application/complaint, alleging that on 29.1.2000 at about 10.30 P.M., accused Bhim, Jagdish and Hari Singh came in front of his house and abused his wife, Barji. They also threatened to take away his daughter and set his house on fire. Thereafter, Hari Singh set the *chhappar* on fire, which was constructed in front portion of the house of complainant-petitioner.

At that time two cows were tied in the said *chhappar*, out of which one cow

got herself released and ran away. The other cow, which was tied with an iron *bale* (peg), was burnt. One Jagdish Singh son of Siri Ram took out the burnt cow from the *chhappar*. At the time of occurrence, Balwant Singh-complainant was not present at his house, as he had gone to his in-laws house at village Nandha. He returned to his house in the morning on 30.01.2000. Thereafter, he moved a complaint (Ex.PD) to the police, on the basis of which the present FIR was registered. After completion of necessary formalities, challan against Hari Singh was prepared and presented before the Court, whereas the other two accused were found innocent.

After presentation of the challan, charge under Section 436 IPC was framed against Hari Singh, to which, he pleaded not guilty and claimed trial. Birji Devi, wife of the complainant was examined as PW-1, who specifically named all the three accused, who had burnt the *chhappar*. Thereafter, the prosecution moved an application under Section 319 Cr.P.C., which was allowed on 11.10.2001 and the remaining two accused namely Bhim and Jagdish were summoned to face trial.

Thereafter, all the three accused were charged sheeted under Section 436 IPC, to which, they pleaded not guilty and claimed trial.

The trial Court after going through the entire evidence led by the prosecution, convicted and sentenced only Hari Singh, accused under Section 436 IPC. However, by giving benefit of doubt, accused Jagdish and Bhim were acquitted of the charges framed against them.

As per the version of the petitioner, accused Jagdish and Bhim were also liable to be convicted along with their co-accused Hari Singh, who was sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.2000/- under Section 436 IPC. In default of payment

of fine, he was further sentenced to undergo rigorous imprisonment for three months.

Heard.

It was only Hari Singh, who had been attributed active role in setting the *chappar* on fire. Smt. Barji Devi (PW-2) had categorically stated that the other two accused namely Jagdish and Bhim Singh were not involved in the occurrence. They were merely present outside the house of the complainant. Moreover, during investigation, they were kept in column No.2. Subsequently, they were summoned to face trial under Section 319 Cr.P.C.

In these circumstances, since there was no evidence before the trial Court to convict Jagdish and Bhim Singh under Section 436 IPC, the judgment of acquittal does not require any interference.

Dismissed.

04.02.2015
ajp

(RITU BAHRI)
JUDGE