

346 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 1886 of 2006

Decided on 09.12.2015

Mahabir Singh

.....Petitioner

Versus

Narinder Kumar@ Salinder and ors.

.....Respondent

CORAM : Hon'ble Mr. Justice JITENDRA CHAUHAN

Present : Mr. Yashpal, Advocate,
 for the petitioner.

Mr. Madan Pal, Advocate,
for the respondents No. 1 to 5

Ms. Neelam Kashyap, DAG, Haryana.

JITENDRA CHAUHAN, J.

This revision is directed against the judgment dated 26.05.2006, passed by the Trial Court vide which the respondents no. 1 to 5 were ordered to be acquitted in case FIR No. 31 dated 14.03.2004, under Sections 148, 323, 325 and 307 read with Section 149 IPC registered at Police Station Madhuban, District Karnal.

The brief facts of the case as noticed in para no. 2 of the judgment passed by the trial Court are as under :-

“Briefly put the prosecution case is that the complainant Mahavir lodged a complaint with the police on 14.03.2004 on the allegations that he is an agriculturist by profession and resident

of village Bastara. At 8 p.m on 13.03.2004, his younger brother Balraj was returning to his house from the Baithak. The accused Jagdish lives in the neighbourhood. Balraj entered into a quarrel and fighting with Surinder and Anil etc. who are sons of Jagdish regarding having standing in the gali. But the matter was compromised with the intervention of neighbours.

At about 9 p.m., after taking dinner, the complainant was going from his house to the Baithak and when he reached in front of the house of Jagdish, he found the accused Jagdish, Anil, Surinder, Situ and Rajinder armed with lathis and Salinder armed with gandasi were waiting for him. On seeing the complainant, they came out of their house. Accused Jagdish gave a lathi blow and when the complainant tried to save him, it had fallen on his left hand. The accused Salinder gave a gandasi blow on the right eye brow of the complainant. He fell down on the ground and shouted for help.

On hearing his shouts, his brother Balwan Singh along with his wife Darshna Devi and

Cousin Jitender Kumar and Raghbir Singh rushed on the spot. Darshna Devi lied on the complainant to save him. But she was also inflicted injuries by the accused. Balwan Singh, Jitender and Raghbir were also inflicted injuries by the accused with lathis when they tried to separate them. The complainant had received injuries on his left leg, below his left eye, nose and left knee. On hearing shouts, several neighbourers had also gathered on the spot. On seeing them, all the accused fled away from there along with their respective weapons.”

The incident led to the registration of two cases i.e. the present case and a cross case which is being disposed of vide CRR No. 276 of 2007.

The learned trial Court after holding trial, acquitted the accused by observing that PW-1 in cross-examination stated that the street bifurcates and one of them goes to the house of Jagdish and another to the house of the complainant and their houses are separated by distance of about 35 feet. It is highly unnatural that shouts and cries from the incident happening in another street in front of the house of Jagdish shall reach to the house of the complainant in order to attract his family members. Moreover, no evidence had been brought on record to prove that for going from the house of the complainant to his

Baithak, one has to pass in front of the house of Jagdish. No independent witness had been examined by the prosecution to corroborate the statement of the complainant. PW-2 Raghbir Singh, admitted in his cross-examination that no other incident had taken place prior to the present incident. Therefore, the statement of PW-1 was not supported by PW-2, and the accused were given the benefit of doubt.

Feeling aggrieved against the judgment of acquittal, complainant – Mahavir Singh filed this revision which was admitted on 27.05.2008.

This Court has heard the learned counsels for the parties and has gone through the record with their able assistance.

In the complaint, Ex. P-1, as well as in the examination-in-chief, PW-1, Mahavir Singh, has stated that an hour prior to the present occurrence, his younger brother Balraj was returning to his house from the Baithak and he had entered into an argument with Surinder and Anil, sons of Jagdish for standing in the street. The matter was compromised with the intervention of their neighbours. The said occurrence stated to have taken place on 13.03.2004 has not been corroborated by PW-2, Raghbir Singh who is none else but the cousin of the complainant. In his earlier statement Ex. D-1, he had stated that he caused injuries to accused Surinder and Jagdish but while appearing in the Court, he took a contrary stand and denied the same. Further, as per the version of the complainant, his

sister-in-law Darshana Devi and cousin Jitender Singh also received injuries at the hands of the accused but these witnesses have not been examined by the prosecution for the reasons best known to it. The cumulative effect of all these facts is that the prosecution has not been able to prove its case beyond a reasonable shadow of doubt. The testimony of PW-1 is replete with contradictions and is not supported by other witnesses.

In **State of Rajasthan v. Bhanwar Singh 2004 AIR**

(SCW) 3985 Hon'ble Supreme Court has held as under :-

“It is well settled that in a case where two views are possible, one of acquittal and the other of conviction, the higher court should not interfere with the order of acquittal impugned before it.”

In view of the observations made above, this Court does not find any illegality or irregularity in the impugned judgment of acquittal passed by Additional Sessions Judge. Consequently, the present revision petition is dismissed.

09.12.2015
SN

(JITENDRA CHAUHAN)
JUDGE