

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**Crl. Revision No. 1875 of 2007
Date of Decision: 01.07.2015**

Bhajan Singh and another

...Petitioners

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the digest?

Present: Mr. Vivek Goel, Advocate
for petitioner No. 1

Mr. Deep Singh, AAG Punjab

ANITA CHAUDHRY, J.

This revision was directed against the conviction and sentence recorded by the Chief Judicial Magistrate on 08.11.2005, which was affirmed in appeal by the Additional Sessions Judge, Moga on 26.09.2007. The trial Court had convicted Sukhdev Singh, Bhajan Singh and Balbir Singh. The present revision was filed by Bhajan Singh and Balbir Singh. The revision petition qua petitioner No. 2 was disposed of on 02.11.2007 while the revision was admitted only qua petitioners No. 1 namely Bhajan Singh.

The factual matrix is required to be expounded. Nirmala Rani lodged a complaint alleging that on 02.06.2000, Sukhdev Singh contractor alongwith gunman and 2-3 other persons forcibly entered into her house and accused her of storing liquor. In the process the

household articles were destroyed and she was beaten up. The incident was witnessed by the complainant's brother Balwinder Singh, Rajinder Kumar and some other persons. The complainant informed the Sarpanch and the member Panchayat but out of fear she could not report the incident to the police. The incident was reported to the police on 12.06.2000. Investigations were carried out and three persons were challaned. Charge was framed under Sections 452, 506, 427 IPC. The prosecution examined Nirmala Rani, Gurmit Singh and Rajinder Paul besides the official witnesses. The accused took up the plea of denial and examined the witnesses. The trial Court accepted the statements and recorded a finding against the accused and sentenced them to imprisonment under Section 452, 506, 427 IPC.

Aggrieved by the judgment an appeal was preferred by all the accused. The order was maintained.

Lower Court record has been received.

I have heard learned counsel representing petitioner No. 1 and the State counsel.

Learned counsel for petitioner No. 1 urges that there was a delay in lodging the FIR and perusal of the statement made by private witnesses would show that none of them had named Bhajan Singh and this issue was raised at the time of admission of the revision and that is why the revision was admitted while the sentence qua petitioner No. 2 was reduced. It was urged that specific role was assigned to Sukhdev Singh who failed to prefer a revision and neither the complainant nor Gurmit Singh or Rajinder Paul named

Bhajan Singh. The counsel extensively read out the statements given by three witnesses.

I have gone through the evidence and find that neither the complainant nor the two other witnesses examined by the prosecution had named Bhajan Singh. The trial Court had recorded the conviction only because there was a sweeping statement that all the accused had come to her place and had caused destruction. The complainant had only named Sukhdev Singh and Balbir Singh. Nirmala Rani in her statement specifically gave a clean chit to Bhajan Singh and had clearly stated that Bhajan Singh did not come to her house. On the face of this statement the judgment of the trial Court as well as the Appellate Court has to be set aside qua petitioners No. 1. The prosecution had failed to lead any evidence against petitioner No. 1 and is acquitted. The revision is accepted qua petitioner No. 1.

Records be sent back.

July 01, 2015

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**(ANITA CHAUDHRY)
JUDGE**