

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

CRR No.2582 of 2012(O&M)

Date of Decision:-07.09.2015

Hamir Singh.

.....Petitioner.

Versus

Bimaljeet Singh & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH

Present:- Mr. D.S. Randhawa, Advocate for the Petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

Mr. Kanwal Goyal, Advocate for
Mr. Amarjit Markan, Advocate for respondent nos.1 to 27,
29 to 34 and 36 to 63

JASWANT SINGH, J (ORAL)

Complainant Hamir Singh has filed the present revision petition aggrieved against the order dated 29.05.2012 passed by the learned Additional Sessions Judge, Sangrur whereby learned Additional Sessions, Judge, Sangrur has modified the judgment and order of sentence passed by the learned Judicial Magistrate, Ist Class, Sunam and has ordered release of the private respondents on probation, on their furnishing bonds in the sum of Rs.5,000/- each with one surety in the like amount under Section 4(1) of the Probation of Offenders Act 1958, with an undertaking to be of good behaviour for a period of one year. It was further ordered by the learned Additional Sessions Judge, Sangrur that the private respondents were to

appear before the competent authority as and when required and also costs of Rs.500/- each was imposed upon them, out of which, 50% of the said amount was to be paid to the complainant, to defray the expenses for prosecuting the complaint.

Learned Counsel for the petitioner has fairly conceded that since it is a case of no injury, he restricts his claim only qua the grant of compensation which, as per him is on the lower side.

On the other hand, learned Counsel for the private respondents has relied upon a judgment passed by Division Bench of this Court in **CRA-D-1452-DB of 2014** titled as **Ram Naresh Singh Vs. State of Punjab & Anr. Decided on 11.11.2014** to contend that the complainant was required to move an application for enhancement of compensation under Section 357 Cr.PC in the pending appeal and since, he had not filed any application before the learned Additional Sessions Judge, Sangrur, he cannot be granted any compensation at this stage. He has further pointed out that the learned trial Court, in the concluding para of its judgment has held as follows:-

“ So far as the charge under Section 427 read with Section 149 IPC, is concerned, the prosecution has not been able to prove on record that the loss/damage caused was having value more than Rs.50/-, so in the absence of any proof, the quantum of damage/loss cannot be presumed by the Court itself, as such the prosecution has not been able to prove beyond reasonable doubt the charge under Section 427 read with Section 149 IPC against the accused persons.

”

Thus, he has argued that since the complainant has failed to

prove any loss or damage to his alleged standing crop, therefore, the quantum of damage or loss cannot be presumed by the Court itself, while assessing amount of compensation.

After hearing learned Counsel for the parties and perusing the paper book, this Court is of the considered view that the present petition is devoid of any merit and the same deserves to be dismissed.

The Division Bench of this Court in **Ram Naresh Singh's case** (*supra*) has clearly held that an application under Section 357 Cr.PC has to be moved by the complainant for non grant of compensation in a pending appeal. Since in the present case, the complainant had not filed an application under Section 357 Cr.PC before the learned Additional Sessions Judge, Sangrur, thus, the complainant has effectively given up his claim for grant of compensation. However, the learned Additional Sessions Judge, had still granted him compensation although, no such application was there on record. Further, the learned trial Court has also held that there is no such evidence coming forth whereby it is proved as to what is the quantum of damage caused to the complainant/petitioner from overt acts of the private respondents.

In view of the above, finding no merit in the present revision petition, the same is hereby dismissed.

(JASWANT SINGH)
JUDGE

September 07, 2015
Vinay