

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRR No.3704 of 2012 (O&M)****Date of Decision: September 08, 2015**

Gurshinder Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Sant Pal Singh Sidhu, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner against the judgment dated 21.08.2012 passed by learned Addl. Sessions Judge, Ferozepur, vide which appeal filed by the present respondents has been allowed and the appeal filed by the petitioner was dismissed, by setting aside the judgment of conviction and order of sentence dated 22.01.2012 passed by learned JMJC, Ferozepur.

I have heard learned counsel for the petitioner and have gone through the record.

The brief facts of the case are that challan was presented against accused Joginder Singh, Nishan Singh, Mukhtiar Singh, Baldev Singh and Lakhwinder Singh in case FIR No.183 dated 13.10.2003. The FIR in this case was registered on the statement of Gurshinder Singh, who stated that he is doing the business of

commission agent. On 12.10.2003 at about 8.00 P.M., when after loading the truck, he came outside on the road, he saw that half portion of the road was blocked with bricks and one maruti car white in colour was parked in front of the main gate of the house of Baldev Singh. When the complainant tried to keep the bricks aside to pass his loaded truck, then from the house of said Baldev Singh, all the accused came out. Accused Joginder Singh was armed with *dang*, Baldev Singh was armed with *takua* and remaining three accused namely Nishan Singh, Mukhtiar Singh and Lakhwinder Singh were armed with double barrel rifles. Accused Joginder Singh raised *lalkara*. It is also in the FIR that Joginder Singh gave *dang* blow which hit on left side of head of complainant and then he fell down. When he was lying on the ground, Baldev Singh gave *takua* blow, which hit on the left hand near the little finger and Baldev Singh gave another *takua* blow on the upper side of left wrist of the complainant. Then complainant raised noise and on hearing the noise, complainant's father Hazoor Singh and his younger brother Gurjant Singh reached the spot and thereafter, accused ran away. Complainant Gurshinder Singh also filed a separate complaint against the accused persons under Sections 326, 341, 323, 324, 148 and 149 IPC and section 25 and 27 of the Arms Act and the said complaint was also clubbed with the present State case.

Learned Judicial Magistrate Ist Class, Ferozepur, after recording the evidence and after hearing the parties, only convicted Joginder Singh and Baldev Singh under Section 323 and 341 IPC and

they were acquitted of the charges under Section 148 and 326 IPC whereas remaining accused namely Nishan Singh, Mukhtiar Singh and Lakhwinder Singh were acquitted of all the charges framed against them. Then appeal was filed by accused Joginder Singh and Baldev Singh against their conviction and another appeal was filed by complainant Gurshinder Singh against all the accused persons for their conviction in all the offences for which they are charged with. Learned Addl. Sessions Judge, Ferozepur, vide judgment dated 21.08.2012, accepted the appeal filed by accused Joginder Singh and Baldev Singh and acquitted them from all the charges and appeal filed by Gurshinder Singh was dismissed.

Aggrieved from the above-said judgment dated 21.08.2012, present revision petition has been filed by complainant Gurshinder Singh.

From the record, I find that this is a revision petition and in the revision petition, this Court is not to re-appreciate the evidence like a Court of appeal. This Court is only to see whether the findings given by Courts below are perverse or some evidence has been misread or some material evidence has not been considered by the Court below or the findings are against the law. Nothing has been pointed out as to which evidence has been misread nor there is anything that any material has not been considered by the Courts below. Furthermore, learned counsel for the revision petitioner has not pointed out as to how the findings given by learned Courts below are perverse or against the law. Admittedly, no active role has been

attributed to Nishan Singh, Mukhtiar Singh and Lakhwinder Singh, who are stated to be armed with fire arm weapons. They have not caused any injury nor took any active participation in the commission of the offence. Even *lalkara* has been attributed to Joginder Singh accused. Therefore, learned JMIC, Ferozepur has correctly acquitted accused Nishan Singh, Mukhtiar Singh and Lakhwinder Singh from the charges framed against them.

Further, I find that learned Court after discussing the oral as well as medical evidence, found that injury No.3 on the person of complainant was an abrasion on left little finger. Injury No.2 is incised wound and the doctor himself stated that as per the dimension of injury No.2, this injury to be caused by weapon like *takua* is less likely. Furthermore, earlier statement of Gurshinder Singh was recorded by ASI Sham Lal, where in that statement, he has nowhere stated that Baldev Singh was armed with *takua*. The Court also discussed that injury No.2 was not a grievous injury and injury No.3 was an abrasion and was not caused with sharp-edged weapon. Therefore, the Court has rightly held that these injuries are not as per the ocular version. The doctor also stated that these injuries can even be self-suffered.

As regarding injury No.1, learned Addl. Sessions Judge, Ferozepur has further discussed that in the application Ex.DW1/A, which was given by the complainant and proved by defence witness, it was specifically stated that accused were standing with *dang*. There is no mention of *takua* as already held and as per the complaint, Head Constable Baldev Singh and Joginder Singh gave *dang* blows on his

head with intention to kill. There is only one injury on the head of the complainant, therefore, it is again doubtful as to who caused that injury. PW-2 Dr.Hardut Jyoti also stated that injury might have been self-inflicted. Baldev Singh and Lakhwinder Singh were declared as innocent during the investigation conducted by SI Yadwinder Singh DW-1. The Court further discussed the contradictions in the statements of PW-4 Gurshinder Singh and his father PW-5 Hazur Singh.

In view of the findings given by learned Addl. Sessions Judge, Ferozepur, in no way, it can be held that these findings are against the evidence or perverse. The judgment dated 21.08.2012 passed by learned Addl. Sessions Judge, Ferozepur is correct, as per law and does not require any interference from this Court and the same is upheld.

Therefore, finding no merit in the present revision petition, the same is dismissed.

September 08, 2015
Vgulati

(INDERJIT SINGH)
JUDGE