

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

**Crl. Revision No. 2346 of 2013 (O&M)
Date of decision: 30.01.2015**

Labh Singh

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the petitioner.

RITU BAHRI, J.

Crl. Misc. No.34237 of 2013

For the reasons mentioned in the application, same is allowed and delay of 147 days in filing the revision is condoned.

Crl. Revision No.2346 of 2013

Challenge is to the judgment dated 29.01.2013 passed by the Additional Sessions Judge (Fast Track Court), Rupnagar, whereby he has dismissed the appeal filed by the petitioner-complainant against the judgment dated 11.11.2011 passed by the Judicial Magistrate Ist Class, Rupnagar, acquitting accused-respondent Nos. 2 to 5 of the charge under Sections 379, 447 IPC.

In brief, the facts of the present case are that Labh Singh-complainant got recorded his statement to the police that he had retired from MES and now he was doing the work of agriculture in his village. He along with his brother-Rattan Singh and nephew-Gian Singh was in cultivating possession of land measuring 4 Kanals 11 Marlas. In the month of July,

2006, they had sown *harhar* crop in the said land. However, in the intervening night of 15/16.11.2006, accused-respondent Nos. 2 to 4 cut and removed the crop of the complainant-petitioner and tried to take possession of his land. Initially, the matter was taken up before the Panchayat for effecting a compromise, but the same could not be effected. In this background, the FIR was registered. After completion of necessary investigation, challan against respondent Nos.2 to 4 was presented before the Court.

After presentation of the challan, charges under Sections 379, 447 IPC were framed against accused-respondent Nos. 2 to 4, to which, they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Labh Singh (PW-1), Gian Singh (PW-2), HC Malwinder Singh (PW-3), Swaran Singh (PW-4) and Harmesh Kumar Patwari (PW-5). Thereafter, the evidence of the prosecution was closed by order.

Statements of accused-respondent Nos. 2 to 4 under Section 313 Cr.P.C., were recorded, wherein all the incriminating evidence was put to them. However, they denied the same and pleaded false implication.

Trial Court, after going through the evidence led by the prosecution, acquitted the accused of the charges framed against them. In appeal, the Appellate Court affirmed the findings of the trial Court and dismissed the appeal filed by the petitioner.

Labh Singh-complainant did not lead any evidence to identify the land in dispute, from where *harhar* crop had been allegedly stolen by respondent Nos. 2 to 4-accused by trespassing during the intervening night of 15/16.11.2006. He did not prepare any damage report with regard to the

stolen crop. Further, at the time of preparing rough site plan of the place of occurrence, the Investigating Officer did not join Rattan Singh for the purpose of identification of the said property. Even, he did not prepare any damage report with regard to the stolen crop. In the absence of above said evidence, the prosecution was not able to establish that accused-respondent Nos. 2 to 4 were guilty of the offences under Sections 379, 447 IPC. Labh Singh-complainant had made an application through his brother, Rattan Singh, to the police, but copy of Jamabandi pertaining to the land in dispute, had not been filed along with the said application. He did not place on record any application made by him to the Gram Panchayat on 16.11.2006. Gian Singh, whose land is situated adjacent to the land of the complainant, did not go to the police station in order to get his statement recorded against the accused. He had not seen any person cutting the *harhar* crop from the field in question. Moreover, HC Malwinder Singh, who had recorded the statement (Ex.PW1/A) of Labh Singh-complainant, did not conduct any enquiry.

In these circumstances, after going through the impugned judgments, this Court is of the view that there is no sufficient evidence on record, which could lead to the conviction of accused-respondent Nos. 2 to 4.

Resultantly, the present petition is dismissed.

(RITU BAHRI)
JUDGE

30.01.2015
ajp