

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

**Crl. Revn. No. 3288 of 2013 (O&M)
Date of decision : 02.02.2015**

Ghanshyam Dass KediaPetitioner
versus

State of Haryana and others ...Respondent

CORAM: **HON'BLE MS. JUSTICE RITU BAHRI**

Present: Mr. Ramender Chauhan, Advocate
for the petitioner.

Mr. Vikas Chopra, D.A.G. Haryana

RITU BAHRI , J. (Oral)

Crl. Misc. No. 44423 of 2013

For the reasons mentioned in the application,
delay of 150 days in filing the present revision petition is
condoned.

The application stands disposed of accordingly.

Main case

Challenge is to the judgment dated 13.02.2013
passed by learned Sessions Judge, confirming and upholding
the judgment dated 08.03.2011, vide which the accused-
respondent Nos. 2 to 4 has been acquitted of the charges
levelled against them in F.I.R No. 65 dated 12.02.2000 under
Sections 457/380/511 of IPC, registered at P.S. City Bhiwani.

On 29.09.2009 when the complainant/petitioner
along with his family members was away to Vaishno Devi,

came from there and found Satish Kumar was cutting the lock of his room with an iron blade. Locks of three rooms were already broken and valuable articles lying there were also stolen away. On seeing the petitioner, accused Satish ran away taking with him certain articles, utensils and other documents pertaining to the petitioner. A complaint was moved to the police post patram gate, Bhiwani. In the above background, the above mentioned F.I.R was registered.

During investigation of the case, the cancellation report was submitted by the police and on receipt of the cancellation report, notice of the same was issued to the complainant, to which he appeared and was not satisfied with the investigation conducted by the police and directed to proceed further with the case. A protest petition was filed by the petitioner reiterating all the allegations as contained in the original complaint moved to the police. The complainant was directed to produce the preliminary evidence in support of his protest petition.

All the accused persons were summoned under Sections 451/380 IPC, vide order dated 31.10.2003.

In pre-charge evidence, the complainant examined himself as P.W.1 and further produced his son as P.W.2 Rajesh and the precharge evidence was closed vide order dated 09.09.2009.

The accused were charge-sheeted under Sections

451/380 IPC, vide order dated 26.09.2009 to which they pleaded not guilty and claimed trial. The evidence of the complainant was closed on 03.08.2010.

Statement of the accused was recorded under Section 313 Cr.P.C, in which they pleaded innocence and false implication in the case and denied all the allegations in the complaint.

In defence, the accused examined D.W.1 Ashok Kumar, Assistant in the office of District Consumer Forum, D.W.2 Dharampal, Clerk, Food and Supply Department, D.W.3 Rattan Lal, AVRK, DC Office, Bhiwani and D.W.4 Satish Kumar Clerk, District Election Office, Bhiwani and closed the evidence.

During the pendency of the case, accused Satya Narain died and proceeding against him were dropped.

The accused were acquitted by both the Courts below on the grounds that on the initial application of the complainant, F.I.R No. 65 dated 12.02.2000 under Sections 451/380/511 IPC regarding the same allegations and the matter was thoroughly investigated by the police and the allegations were found to be false and cancellation report was submitted. But thereafter, the petitioner filed a protest petition upon which the criminal proceedings were initiated against the accused. Further, the complainant was not residing in H. No. F-379 situated at Shiv Nagar Colony,

Bhiwani but he was residing in a house situated at Shiv Nagar Colony, Bhiwani. The complainant was in the habit of initiating criminal proceedings on false allegation against his father, brother and bhabhi in order to grab their property and litigation was going on between the parties.

As per statement of P.W.1-Ghanshyam Dass and his son Rajesh P.W.2, the complainant was not residing in H. No. F-379 situated at Gali Baidhan, Halu Bazar, Bhiwani but he along with hi wife and other children has been residing at H. No. 323, Shiv Nagar Coloany since long. P.W.1 in his examination in chief has reiterated the allegations as set up in the complaint.

As per the cross examination of both the witnesses, it is established that the complainant has not been residing in F-379 situated at Gali Baidhan, Halu Bazar, , Bhiwani on the day of occurrence. The complainant has not produced any document showing that he was residing at H. No. F-379.

On the other hand, respondents accused have examined D.W.1 Ashok Kumar, Assistant in the office of District Consumer Forum who produced the copy of complaint mark D.W.1/A filed by Gayatri Devi, resident of H.No. 323,Shiv Nagar Colony against the electricity department. D.W.2 Dharampal, Clerk, Food and Supply Department has produced record regarding renewal of depot

licence of gayatri wife of Ghanshyam Dass, r/o H.No. 323, Shiv Nagar Colony and further deposed that Gayatri had moved an application for taking depot on 14.09.1987 and proved reports Ex DW2/A and DW2/B, He also proved application D.W.2/C to D.W.2/H. D.W.3 Rattan Lal, AVRK, DC Office, Bhiwani proved the copy of the plaint of civil suit titled Ghanshyam Dass vs. Nand Lal etc as Ex DW3/A along with amended titled as Ex DW3/B. D.W.4 Satish Kumar Clerk, District Election Office, Bhiwani proved extract of electoral roll, wherein Ghanshyam Dass, Gayatri, Rajesh, Inder and Pardeep have been shown residing in Shiv Colony, Bhiwani.

Thus, both the Courts below have rightly acquitted the respondents by giving a finding that the possibility of false allegations cannot be ruled out as there was long litigation pending between the parties.

The revision petition is dismissed accordingly.

02.02.2015
G Arora

(RITU BAHRI)
JUDGE