

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR no. 3657 of 2013 (O&M)
Decided on :21.05.2015

Balwinder Singh

....Petitioner(s)

VERSUS

Gurdial Singh and others

....Respondents

CORAM:- HON'BLE MR. JUSTICE MAHESH GROVER

Present:- Mr. R.L.Batta, Sr. Advocate with
Ms. Harsimram Kaur, Advocate for the petitioner

MAHESH GROVER, J

The petitioner has impugned the orders of learned Trial Court dated 17.5.2010 and that of learned Fast Track Court dated 18.7.2013 whereby his complaint under Sections 452, 506, 188, 201, 114, 148, 149 IPC was dismissed.

The facts would indicate that the dispute is between the brothers and allegations to demolish a wall had been made further leading to allegations of house trespass and other related offences under Sections 452, 506, 188, 201, 114, 148, 149 IPC.

Both the Courts have dismissed the complaint on the ground that the evidence is un-inspiring.

Learned counsel for the petitioner contends that even if it is assumed that the other witnesses were not present but the presence of the mother namely Paramjit Kaur examined as CW 3 cannot be doubted. The Court has noticed that the complaint was filed after 11 days and there is no mention as to why the complainant remained silent for all these days after the incident took place. It has also been noticed that ASI Ajit Singh had

come within 2 to 3 hours of the incident but no complaint in writing was made by him and neither was any attempt made regarding making of any representation to the higher authorities in case of dereliction of duty by the ASI Ajit Singh. It is also stated that civil dispute is going on between the parties regarding the property in question. RSA is also pending before this Court.

On due consideration of the matter I am of the opinion that the reasoning given by both the Courts cannot be said to be perverse so as to warrant interference. There is hardly any evidence to show that the respondent-accused had committed the offence alleged by the complainant. The presence of the witnesses who incidentally are brothers has been rendered untrustworthy as all of them are not residing in the village. There is no independent witness to the occurrence. If a wall had been demolished in the alleged manner in a village it would have been witnessed by co-villagers.

For the aforesaid reasons, I am of the view that entire testimony of the witnesses produced by the petitioner is uninspiring and therefore, no interference is warranted.

Hence, instant petition is hereby dismissed.

May 21, 2015
rekha

(Mahesh Grover)
Judge