

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.2395 of 2015 (O&M)
Date of Decision: August 31, 2015

Jagir Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vishal Goyal, Advocate for
Mr.J.S.Thind, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Jagir Singh against State of Punjab and other respondents, challenging the impugned judgment dated 21.05.2014 passed by learned Sub Divisional Judicial Magistrate, Ajnala, vide which the accused were acquitted and also challenging the judgment dated 24.04.2015 passed by learned Addl. Sessions Judge, Amritsar vide which appeal filed by petitioner-complainant was dismissed.

The brief facts of the case are that the FIR was registered on the basis of statement of Jagir Singh, who stated that on 24.10.2008 at about 6.30 P.M., he along with his mother Kashmir Kaur and brother Resham Singh was digging garlic in the land. Then Ashwani Kumar armed with dang, Vijay Kumar armed with Datar, Raman Kumar armed with spade and Jagdish Chand empty handed came there and Jagdish Chand raised *lalkara* that they want to take possession of said land. Complainant Jagir Singh told them that the land in question belongs to them as it has been purchased by his

father. In the meanwhile, Vijay Kumar gave a datar blow to the complainant. Complainant raised his left hand to save him and the blow of datar hit on his first finger. Ashwani Kumar then gave a dang blow to complainant, which hit on his right elbow. Then, Kashmir Kaur and Resham Singh came forward to rescue and in the meantime, daughter-in-law of Jagdish Chand came at the spot and hit Kashmir Kaur with a stone on her right shoulder. Raman Kumar gave a spade blow to Resham Singh, which hit on his head. Then Ashwani Kumar gave two dang blows to Resham Singh, which hit on his left bicep and left shoulder. They raised hue and cry and on hearing shouts, Major Singh, brother of complainant, arrived at the spot and all the accused ran away from the spot along with their respective weapons.

Learned SDJM, Ajnala, after appreciating the evidence on record, acquitted the accused vide judgment dated 21.05.2014. Aggrieved from the above-said judgment, an appeal was filed by the complainant and learned Addl. Sessions Judge, Amritsar, dismissed the appeal vide judgment dated 24.04.2015.

Aggrieved from the above-said judgments, present revision petition has been filed.

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

From the record, I find that it is a revision petition and in the revision petition, the petitioner is to show as to what illegality has been committed by the Courts below and which material evidence has been misread by the Courts below and which material evidence has

not been considered by the Courts below. The petitioner is to show as how the findings given by the Courts below are perverse.

At the time of arguments, learned counsel for the petitioner has not shown anything as to how the findings given by the Courts below are perverse or against the evidence. Nothing has been pointed as to which evidence has been misread and which material evidence has not been considered by the Courts below. Learned SDJM, Ajnala, while appreciating the evidence, found that the oral statements are not corroborated by medical evidence. Resham Singh has received injury i.e. incised wound over head measuring 4½ x ½ cm about 14 cm from left ear. Bleeding was present and wound was skin deep; second injury was complaint of pain on right shoulder and their injury was abrasion 2 x 2 cm on left wrist on lateral aspect. The doctor deposed that injury No.1 as self suffered cannot be ruled out. The doctor also opined that there was no external injury as per injury No.2 and injury No.3 can be by fall etc. Two injuries were found on the person of Jagir Singh. One is incised wound 5 x ½ cm on the base of index finger of left hand and the Court held that with datar, injury cannot be caused only on index finger because the other fingers might have received some injuries. The second injury was abrasion of 2.2 cm on the right elbow. Kashmir Kaur has only received one injury i.e. abrasion 11 x 5 cm on right shoulder.

There is delay of 82 days in recording the FIR. Learned Magistrate has reached to the conclusion that this delay has not been explained and in view of the injuries and the version, this delay is fatal

to the prosecution case. It is in the evidence that the Investigating Officer had gone to complainant for recording his statement but Jagir Singh stated to Investigating Officer that he will get his statement recorded later on, as talk regarding compromise is going on. The Court also discussed the fact that no person from the Panchayat, who was getting the compromise effected, has been examined to explain and prove the delay. Learned SDJM, Ajnala also discussed that it is in the evidence that the injury with spade has not been given on the head of Resham Singh as the doctor has himself admitted in the cross-examination that injury on the head of Resham Singh is not with spade.

Keeping in view the long delay of 82 days in getting the statement recorded to the police by Jagir Singh, which remained unexplained, reasonable doubt exists regarding concoction of the version, especially in view of the injuries suffered by the complainant side, which are not corroborated by medical evidence. Further, the findings given by learned SDJM, Ajnala are upheld by learned Addl. Sessions Judge, Amritsar vide judgment dated 24.04.2015.

In view of the above discussion, I find that the findings given by learned Courts below are correct, as per evidence, law and no illegality has been committed by the Courts below while passing the impugned judgments.

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

August 31, 2015

Vgulati

**(INDERJIT SINGH)
JUDGE**