

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRR No.3161 of 2014 (O&M)

Date of decision: 29.01.2015

Jagdish Singh

.....Petitioner

versus

Nirmal Singh and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Ms.Jatinder Jit Kaur, Advocate for the petitioner

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Impugned in the present revision petition is the judgment dated 8.7.2014, passed by the learned Additional Sessions Judge (Adhoc) Fast Track Court, Hoshiarpur, affirming that of learned Judicial Magistrate 1st Class, Dasuya dated 29.3.2012, whereby the accused – respondent Nirmal Singh was acquitted of the charges framed against him under Sections 323, 427, 452 and 506 IPC.

In nutshell, the brief story is that on 4.2.2008, accused Nirmal Singh had visited the gas agency of the complainant Jagdish Singh for getting the slip for refill for gas cylinder. He was asked to come after 5-6 days, on which, Nirmal Singh lost his temper and broke the bolt of the door and after entering in the cabin assaulted Jagdish Singh, causing simple injuries.

Learned Judicial Magistrate 1st Class, Dasuya, after

discussing the evidence led by the prosecution and the defence of the accused, came to the conclusion that there is a deliberate delay in recording the FIR. Occurrence took place on 4.2.2008. Both the injured were approached by the police on 5.2.2008 for recording their statements. But Jagdish Singh did not suffer statement, saying that he is under the influence of medicines, whereas Nirmal Singh stated that there is a move for compromise. The statement is stated to have been made later on 7.2.2008. FIR was registered on 13.2.2008. The learned Magistrate was of the view that this delay is material as this could give sufficient time to the complainant party to put up a coloured version particularly when Nirmal Singh was also claiming that he was beaten up in the Gas Agency and had also received injuries. In this way, there was a version and counter-version and on account of the delay, serious doubts were raised about the story put forward by the complainant/ injured. The learned Magistrate also came to the conclusion that the prosecution failed to prove that the accused was aggressor. Learned Magistrate also noticed that even as per prosecution case, the accused had not gone prepared for commission of crime and that the occurrence took place all of sudden on account of refusal to provide refill. Learned Magistrate also recorded that the Gas Agency is accessible to the general public and any one can go there and that in such case, offence of criminal trespass can not be made out. Keeping in view the fact that the injuries were simple in nature, the possibility of these being self suffered also could not be ruled out. In these circumstances, the learned Magistrate has taken one of the two

possible views. The view taken by him is supported by reasoning and there is nothing to hold that the view taken by him is perverse or patently illegal. His view was affirmed by learned Additional Sessions Judge (Adhoc) Fast Track Court, Hoshiarpur. In these circumstances, it is not possible to interfere in the judgment of acquittal passed by two Courts below.

Revision is accordingly dismissed.

29.01.2015*gk***(Kuldip Singh)
Judge**