

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-3310-2014 (O&M)

Date of decision: 28.07.2015

Balbir Singh

..... Petitioner

Versus

Rattan Singh

..... Respondent

**CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH**

1. *Whether Reporters of the local papers 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?*

PRESENT: Mr. Gobind Dhanda, Advocate for the petitioner.

**R.P. NAGRATH, J.**

**CRM-31819-2014**

Prayer in the instant application filed under Section 5 of the Limitation Act is for condonation of delay of 36 days in filing the instant revision.

For the reasons mentioned in the application which is supported by an affidavit, the same is allowed and delay of 36 days in filing the instant revision is condoned.

**CRR-3310-2014**

The instant revision has been filed against concurrent findings of acquittal on the charge under Section 506 of the Indian Penal Code (IPC), against accused/respondent-Rattan Singh.

2. The prosecution story, briefly, stated is that on 07.11.2008,

the complainant was present in his house with his family members. He received a phone call from mobile No. 092139-31122 as specified in the FIR on his mobile phone and the respondent intimidated the petitioner threatening to kill him, in case, he did not withdraw FIR No. 102 dated 14.05.2008, under Sections 420/405 IPC, Police Station City, Narwana, District Jind, registered against respondent.

3. The prosecution examined the complainant/petitioner-Balbir Singh PW-3 and other witnesses as PW-1 Kuldeep Singh, PW-2 Manoj Kumar his nephews, PW-4 Pataso his wife and PW-5 Bajinder brother-in-law of the petitioner. The Investigating Officer, however, could not be examined as the prosecution was unable to produce rest of the witnesses and the evidence was closed by order.

4. I have heard learned counsel for the petitioner at considerable length and gone through the judgments passed by the Courts below.

5. Learned counsel for the petitioner vehemently contended that there was voluminous evidence to accept the prosecution case. Even the petitioner had filed an application under Section 391 Cr.P.C. before the learned Appellate Court, for additional evidence to prove the call data of mobile number referred to in the FIR, in order to support the case. This record could not be exhibited in the absence of examination of Investigating Officer.

6. I am of the view that the learned Appellate Court rightly declined the prayer. There is proper discussion and analysis of the evidence lead in the case by both the Courts below and the same has been

disbelieved. Even if the respondent-accused made phone calls to petitioner that is not going to improve the case as the parties are close relatives. It seems that the occurrence has been related back to 07.11.2008 just to connect it with the last telephonic conversation between the parties. The above fact would make the huge delay of about 1½ months in lodging the FIR to be quite fatal.

7. Admittedly, the respondent-accused remained his business partner for many years and both the families know each others phone numbers. It is also admitted by the complainant-petitioner (PW-3) and his wife Pataso Devi (PW-4) in their cross-examination that Rattan Singh-respondent had filed a complaint against the petitioner under Section 138 of the Negotiable Instruments Act with regard to bouncing of cheque of ₹ 8 lacs.

8. The learned trial Court further observed as under:-

*“15. Moreover, there is also a delay of more than 1½ months in lodging the FIR. The alleged threatening call was received on 07.11.2008, but the complaint was moved to the police on 26.12.2008, which has not been explained by the prosecution much less satisfactorily. As per the version rendered by complainant Balbir Singh, the reason for delay was that some common friends were trying to amicably settle the matter. Who are these common friends? Why none of them was examined as a witness in the Court?”*

9. There has also been elaborate discussion by the learned Appellate Court on the entire evidence and it was observed as under:-

*“21. PW-3 Balbir Singh is the complainant, PW-1 Kuldeep Singh and PW-2 Manoj Kumar are his nephews, PW-4 Pataso is his wife and PW-5 Bijender Singh is his brother-in-law and are related witnesses. From reappraisal of their statements, it is manifestly clear that they are not reliable and trustworthy witnesses, because contradicting the version mentioned in the application Ex. PW-3/A, while appearing in the court as PW-3 appellant-complainant testified that at 12:50 P.M. when he came to his house, his wife Pataso, son Parveen, nephews Kuldeep and Manoj and his brother-in-law Bajinder told him that the respondent-accused Rattan Singh made a call from his mobile No. 9213931122 on their mobile No. 9416853999 and threatened to withdraw the case under Sections 420 and 506 IPC got registered by them against him, otherwise to face dire consequences and he also used filthy language. Thereafter he disclosed about the matter to his (respondent-accused) partner Ram Diya, who asked him not to take any action as he will enquire from him about the matter. Improving his version, he further testified that on the same day at about 1:00 P.M.*

*respondent-accused again made threatening calls on his mobile No.9466443399. Contradicting the version as set out in the complaint Ex. PW-3/A and that of her husband, PW-2 Pataso testified that at about 12:15 P.M. she received a call on her mobile and the man on the other side started abusing her using filthy language and then threatened her to withdraw the FIR against him and he also demanded Rs. 5 Lacs. There is no mention about the demand of Rs. 5 lacs by the respondent-accused in the statements of PW-1 Kuldeep Singh and Manoj Kumar.”*

10. Even if a different view is possible, the conclusions reached by the Courts below cannot be disturbed in exercise of the revisional jurisdiction unless it is shown that some relevant material available with the trial Court has been ignored or that there has been misreading of evidence. This is a case of proper discussion of evidence by both the Courts below for coming to the conclusion of acquittal.

11. The instant revision found without merit and, thus, dismissed.

**July 28, 2015**  
*rishu*

**( R.P. NAGRATH )**  
**JUDGE**