

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 3850 of 2014
Date of Decision : 16.07.2015

Manmohan Singh

.....Petitioner

Versus

State of Punjab and others

....Respondents

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. A.S. Gill, Advocate
for the petitioner.

R.P. Nagrath, J. (Oral)

The instant revision has been filed to challenge the concurrent findings of acquittal recorded by both the Courts below in the trial held against private respondents in FIR No. 88 dated 10.05.2007 for offences under Sections 323, 324 and 34 of Indian Penal Code.

The facts, briefly stated, are that on 09.05.2007, the petitioner-complainant received a phone call from his son Bonny that some persons were quarreling with the wife of petitioner-complainant. The petitioner went to the spot at 02.30 p.m. alongwith Shambu Sharma PW. It may be mentioned that accused persons are the relatives of petitioner. The prosecution version was that the petitioner was getting down from his motorcycle that the accused persons accompanied by their father Kartar Chand and some unidentified people came in front of him. The accused persons were holding sticks in their hands. Goldy inflicted him the stick blow on the back of his head, Lovely

attacked him with some sharp weapon made of iron hitting on his right wrist as a result of which the petitioner fell on the ground. Thereafter, Kartar Chand gave him kick blows on the back. Cheeku also gave kick blows on the private parts of the petitioner. Above are the nick names of accused persons.

The prosecution examined petitioner as PW-1, Shambu Sharma as PW-2 and Inspector Sukhdeep Singh as PW-3. After recording statements of accused persons under Section 313 Cr.P.C. they also produced Jaspal Singh as DW-1 in defence.

On analysis of evidence, learned trial Court found the charges against the accused persons to be not proved beyond suspicion and acquitted private respondents no. 2 to 4 of the charges framed against them. The petitioner filed appeal against acquittal before the Sessions Judge. Learned Sessions Judge also appreciated the evidence quite extensively finding no ground to interfere in the findings of learned trial Court.

Learned Appellate Court observed as under:-

“14. From the above said statement of Manmohan PW-1, it is very much clear that it is full of improvements, which were introduced for the first time while recording his statement in the court and is not similar to the statement got recorded by him with the police which he proved on record as Ex. PA. Admittedly, Manmohan did not get mentioned in his statement Ex. PA that accused were armed with sharp edged deadly weapons and neither did

he got mentioned before the police in his statement Ex. PA that brother-in-law and father-in-law of Dinesh Kumar his brother intended to take forcible possession of his shop. He also stated that in order to save himself from the accused, he ran inside the shop and closed its shutter but this fact has not been mentioned in his statement Ex. PA, which is another improvement and seems to be an after thought and this fact was introduced for the first time while getting his statement recorded by the prosecution in the court.

15. *Even the statement of eye-witness Shambu Sharma PW-2 has not been able to inspire the confidence of the court because he has mentioned the date of occurrence as 10.05.2007 while as per the prosecution version the occurrence took place on 09.05.2007. Even otherwise his presence at the place of occurrence seems to be highly improbable because as per the statement of complainant, Shambu Sharma, the eye-witness had accompanied him to the place of occurrence after Manmohan received a telephonic message from his son and despite that, he was accompanying him and he never interfered while the fight between complainant and accused was going on and it was only in the end that when the*

complainant cried for help, that he came to his rescue.

16. *xx xx xx xx xx*

17. *.....I am of the view that in the present case it was duty of the prosecution to corroborate the ocular version of its witness with the medical evidence, but the doctor, who had allegedly given treatment to the complainant has not been examined and the MLR is not proved on record, which is also fatal to the prosecution case.*

18. *xx xx xx xx xx*

19. *From the above said facts and circumstances and the evidence on record, I am of the view that the present case seems to have been got registered by Manmohan against brothers of his sister-in-law and her father due to their joint family dispute and no incident had taken place on 09.05.2007.”*

I have heard learned counsel for the petitioner and perused the judgments passed by both the Courts below and find that there is nothing to suggest that the Courts below have misread the evidence or ignored any material on record.

Even if two view were possible, the Appellate Court could not have taken the different view unless finding of learned trial Court was palpably wrong and not based on evidence. The scope of interference in exercise of revisional jurisdiction is rather very limited.

Eye-witness account of the story comprises only of

petitioner and one witness PW-2 Shambu Sharma but admittedly the doctor who conducted medicolegal examination of the petitioner was not examined to corroborate the oral testimony.

I, therefore, find no merit in the instant revision and the same is dismissed.

July 16, 2015
jk

(R.P. NAGRATH)
JUDGE