

CRR-3858-2014

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-3858-2014.

Date of decision: October 6, 2015.

Harish Kumar Chhabra

..... Petitioner(s)

Versus

State of Punjab and others

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

**PRESENT Ms.Jigyasa Tanwar, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

The petitioner is a complainant in a case registered against the respondents No.2 to 5 on the allegation that the accused had kept 70 cows in Gaudham in village Chananpur Kaind and that one cow and one calf had died due to carelessness of accused and on account of malnutrition, hunger, thrust and diseases and that no proper arrangement for cows was being made by the respondents. The private respondents were convicted for the charge of having committed mischief by killing one cow and one calf and having rendered the animal useless by means of torture. The order of conviction has been set aside by the lower Appellate Court doubting the credibility of the complainant as he has been expelled after adopting due procedure by the Trust besides giving benefit of doubt regarding commission of offence under Section 429 IPC.

Learned counsel for the petitioner vehemently contended that there is sufficient material evidence available on the record regarding culpability of the private respondents under Section 429 IPC.

I have heard learned counsel for the petitioner and carefully gone through the judgment of the Courts below and I am of the opinion that prosecution has not been able to establish the ingredients of Section 429 IPC. Mere circumstance that out of 70 cows, one cow and one calf had died would not bring the case of the prosecution within an ambit of Section 429 IPC.

A perusal of provisions of Section 429 IPC indicates that in order to be successful to seek conviction of accused, the following ingredients are required to be established.

- (i) That the accused committed mischief;
- (ii) That the accused committed so by killing, poisoning, maiming or rendering useless;
- (iii) That killing and maiming etc., was done
 - (a) to any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof,
 - (b) or any other animal of the value of fifty rupees or upwards.

Complainant PW.1 Rachhpal Singh who had made a complaint to SHO, Dehlon, in his cross-examination, has admitted

that no written complaint against accused and the Trust regarding the poor conditions of the cows was made. The statement made by him in the Court is nothing but an improvement made by him over the statement under Section 161 Cr.P.C. The said witness has admitted to the extent that he did not visit Gaushala on 2.3.2007 and that he had not seen what happened at Gaushala on 2.3.2007. He has even indicated his ignorance with regard to the report of the doctor.

So far as the statement of PW.7 Dr.Deshdeep Talwar, Veterinary officer, who conducted Post Mortem examination is concerned, he has clarified that the cause of death of the cow was a common disease by which the animal died.

PW.8 Dr.Kiranbir Singh, has also admitted that male calf died on account of weakness, emaciation and phenumonia.

Sufficient reasons have been given by the lower Appellate Court, while granting benefit of doubt to the private respondents.

No ground for interference is made out.

Revision petition is dismissed.

October 6, 2015.
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(M.M.S. BEDI)
JUDGE