

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

CRR No.2922 of 2012 (O&M)
Date of Decision: September 01, 2016

Amar Singh

...Petitioner

VERSUS

U.T. Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.S.Gulati, Advocate
for the petitioner.

Dr.Sukant Gupta, Addl. Public Prosecutor
for the respondent-U.T. Chandigarh.

INDERJIT SINGH, J.

CRM No.57227 of 2012

Heard.

For the reasons mentioned in the application, the same is allowed. Delay of 188 days in filing the accompanying revision petition is condoned.

CRR No.2922 of 2012

The present revision has been filed by the petitioner Amar Singh against respondents State of U.T. Chandigarh, Davinder Kumar, Gur Raj Singh and Girdhari Lal, challenging the impugned judgment dated 31.10.2008 passed by learned Judicial Magistrate Ist Class, Chandigarh, vide which the accused-respondents were acquitted of the charges and also

the impugned judgment dated 06-09-2011 passed by learned Addl. Sessions Judge, Chandigarh, vide which the appeal filed by the State was dismissed.

The brief facts of the case as noted down in the judgment passed by learned JMIC, Chandigarh, are as under:-

“2. Briefly stated the case of the prosecution is that on 12-12-2005 complainant Amar Singh, presented a complaint before the police to the effect that he was present on his official duty at CTU Depot No.2 when at about 1-25 p.m. at lunch time, while he was climbing the stairs of his office, then one person named Devender Kumar, conductor No.585 Depot No.3 accompanied with conductor Girdhari Lal, No.474 and Gur Raj Singh, No.528 gave him beatings. Girdhari Lal and Gur Raj Singh caught hold the complainant and accused Devinder Kumar gave him fist blows, due to which one of his tooth were broken and blood started oozing out. He was rescued by Sh.Surjit Singh and Sh.Harjinder Singh from the clutches of the accused. Complainant also reported the matter to the Director Transport in writing. On the said complaint, the present FIR was registered. Complainant was got medically examined from Government Medical College and Hospital, Sector 32, Chandigarh from where it was found that grievous injuries were suffered by the complainant. During course of investigations the accused were personally searched and arrested. Other usualities and formalities of the investigation were completed and after completion of investigation, challan was filed in the court.”

Learned JMIC, Chandigarh, after appreciating the evidence and after going through the record as well as after hearing the parties, acquitted the accused, firstly on the ground that PW-3 Surjit Singh has not supported the prosecution version, who was stated to be an eye witness in the present case. PW-4 Harjinder Singh also failed to support the case of the prosecution and only statement of complainant remained on the record, supporting the prosecution version. PW-5 SI Dharam Pal Kaushik, who is Investigating Officer of this case, has also stated that during investigation, he found that no injury was caused by the accused persons to the complainant. He also deposed that he got it verified that there is dispute

between two unions. He also stated that the complainant had come at about 3.45 P.M. all alone and some of the clothes of the complainant were stained with blood. The Investigating Officer further stated in cross-examination that complaint Ex.PA is not the complaint, which was given to him by the complainant, but Mark A-1 is the complaint which was received by him. He also admitted that in the complaint Mark A-1, there was no mention of breaking of tooth. Learned Magistrate, therefore, held that initially some other complaint was moved by the complainant in which there was no mention of breaking of tooth and later on, the complainant substituted fresh complaint by adding the new fact of breaking of the tooth.

Keeping in view these facts, learned JMIC, Chandigarh, found that reasonable doubt exists in the prosecution version and acquitted the accused vide judgment dated 31.10.2008. Against this judgment of acquittal, an appeal was filed and learned Addl. Sessions Judge, Chandigarh, vide judgment dated 06.09.2011, also dismissed the appeal and found that prosecution has failed to prove the case against the accused beyond reasonable doubt and the trial Court has properly appreciated the statement of the complainant as well as other evidence on the file and rightly came to the conclusion of acquitting the accused.

From the perusal of the record as well as the judgments passed by the Courts below, I find that the evidence has been appreciated in right perspective. The reasonable doubt exists in the prosecution version. Two witnesses produced by the complainant have not supported the prosecution version. The Investigating Officer has also stated that during investigation, he has not found that accused have caused injuries. There was rivalry

Officer, fresh complaint has been substituted in the place of complaint given to him by adding fact regarding breaking of tooth.

In view of the above discussion, I find that the judgment dated 31.10.2008 passed by learned JMIC, Chandigarh and judgment dated 06.09.2011 passed by learned Addl. Sessions Judge, Chandigarh, are correct, as per law and do not require any interference from this Court. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below. Nothing has been pointed out as to how the findings given by the Courts below are perverse or against the law.

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

September 01, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No