

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

CRR No.1354 of 2013 (O&M)
Date of decision : 21.10.2016

Jai Narain and others

..Petitioners

Versus

State of Haryana and another

...Respondents

CRR No.1946 of 2013 (O&M)

Ram Kishan

..Petitioner

Versus

Jai Narain and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Jatin Hans, Advocate
for the petitioners in CRR No.1354 of 2013 and
for respondent Nos.1 to 7 in CRR No.1946 of 2013.

Mr. Pawan Garg, AAG, Haryana

Mr. Tapan K. Yadav, Advocate
for respondent No.2 in CRR No.1354 of 2013
for the petitioner in CRR No.1946 of 2013

JITENDRA CHAUHAN, J. (Oral)

By this common judgment this Court shall dispose of the
aforesaid two petitions which have arisen from the same judgment and as
common questions of facts and law are involved in both the revision
petitions.

First petition i.e. CRR No.1354 of 2013 has been filed against the judgment dated 07.01.2013, passed by learned Additional Sessions Judge, Bhiwani (learned First Appellate Court), whereby the appeal filed by respondent No.2 against the judgment dated 20.09.2010, passed by learned Additional Chief Judicial Magistrate, Bhiwani, acquitting the petitioners herein in complaint case No.375-I of 2004 under Sections 323, 325, 326 and 506 read with Section 34 of the Indian Penal Code (for short 'the IPC') titled as 'Ram Kishan Vs. Jai Narain and ors.' has been allowed and the petitioners herein have been convicted for the offences punishable under Sections 323 and 506 IPC read with Section 149 IPC.

Second petition i.e. CRR No.1946 of 2013 has been filed against the aforesaid judgment dated 07.01.2013, passed by learned Additional Sessions Judge, Bhiwani, whereby respondent Nos.2 to 7 (petitioners in CRR No.1354 of 2013) have been released on probation of good conduct.

The learned counsel for the petitioners-Jai Narain and others states that respondents-Ram Kishan and Birmati had concocted the story to falsely implicate the petitioners-Jai Narain and others as they were doing the black magic inside their Nohra and when petitioner-Jai Narain asked them to stop, both of them gave injuries to him. Petitioner No.2-Daya Nand was not present at the spot of occurrence, which is duly proved by the statement of DW2-Shashi Kant, who had proved the extract of the attendance register of his company where the said petitioner was working. Dr. Lata Sangwan

deposed that there was no external mark of the injury on the person of respondents-Ram Kishan and Birmati. There is delay of 26 days in filing the complaint by respondents-Ram Kishan and Birmati.

On the other hand, the learned State counsel and learned counsel for respondents-Ram Kishan and Birmati state that when respondents asked petitioner-Jai Narain not to make the staircase in the Gali as the same would pose a problem to them and the general public, petitioners-Jai Narain and others gave severe blows to them with the blunt weapons.

I have heard the learned counsel for the parties and carefully perused the entire record on file.

There is delay of more than two years in filing the complaint by petitioner-Jai Narain. Learned First Appellate Court has observed that petitioner-Jai Narain had instituted the complaint against respondents-Ram Kishan and Birmati after receiving the summons of the complaint instituted by them (respondents-Ram Kishan and Birmati), therefore, the possibility of after thought cannot be ruled out. On the statement of petitioner-Jai Narain, DDR (Ex.C3) was registered, wherein he himself admitted that he was constructing a staircase in the gali and respondents-Ram Kishan and Birmati had objected to the same and caused injuries to him. However, later on, he changed his version by stating that the alleged incident occurred in Nohra. Further, MLRs (Ex.D4 and Ex.D5) of respondents-Ram Kishan and Birmati showed that they had suffered seven injuries. After considering the

statements of respondents-Ram Kishan and Birmati corroborated with medical evidence, learned First Appellate Court has convicted the petitioners-Jai Narain and others. However, learned First Appellate Court has taken a lenient view and released the said petitioners on probation for a period of one year. In these circumstances, this Court does not find any ground to interfere with the impugned judgments, in exercise of its revisional jurisdiction, as no material evidence or any circumstance has come on record to establish that there is any defect of procedure or improper acceptance or rejection of evidence by learned First Appellate Court.

Consequently, the revision petition i.e. CRR No.1354 of 2013 fail and is hereby dismissed.

As far as the second petition is concerned, the order under challenge is dated 10.01.2013, vide which private respondents-Jai Narain and others were allowed probation, whereas the period of probation was one year. The period of probation has elapsed and they have not misused the order of probation, therefore, this petition i.e. CRR No.1946 of 2013 has been rendered infructuous.

Dismissed as having been rendered infructuous.

21.10.2016

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No