

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.188 of 2013 (O&M)

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Date of decision:20.9.2016

Surasti

...Petitioner

v.

Surender Singh and others

Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Vivek K. Thakur, Advocate for the petitioner.

Mr. Sushil Sheoran, Advocate for respondents No.1 and 2.

Mr. Vikas Chopra, Deputy Advocate General, Haryana for the respondent No.4-State.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. against the impugned judgment dated 28.8.2012 passed by learned Sessions Judge, Bhiwani, dismissing the criminal revision petition filed against the impugned judgment of acquittal dated 4.9.2010 passed by the learned Judicial Magistrate Ist Class, Charkhi Dadri, acquitting the accused of the charges framed against them.

Notice of motion has been issued in this case.

Mr. Sushil Sheoran, learned Advocate has put in appearance on behalf of respondents No.1 and 2 and Mr. Vikas Chopra, learned Deputy Advocate General, Haryana has appeared for the respondent No.4-State and contested this revision petition.

I have heard learned counsel for the petitioner as well as

learned counsel for the respondents No.1 and 2 and learned State counsel for respondent No.4-State and have gone through the record.

From the record, I find that challan was presented against Surender Singh, Sanjeev Kumar and Bharat Singh in FIR No.258 dated 3.10.2001 registered for the offences under Section 297, 427 and 34 IPC at Police Station Station Sadar, Dadri.

The brief facts of the prosecution are that on 3.10.2001, a complaint was lodged by one Surasti Devi stating therein that during the night of 29.7.2001, the accused persons and Hira Singh, Sadhu Ram and one Jagdev had collectively caused destruction to the Samadhi of her father-Chandra Ram in the area of Village Adampur Dadri. The above stated accused were arrested. The remaining persons, named in the complaint were found to be innocent by the Police during the investigation of the case. The prosecution examined PW-1 Mool Chand-alleged eye witness, PW-2 Dharam Singh -alleged eye witness, PW-3 Surasti-complainant, PW-4 Amir Singh-husband of the complainant and PW-5 Retired SI Chand Singh, who proved the challan.

The learned Judicial Magistrate Ist Class, Charkhi Dadri, vide judgment dated 4.9.2010 acquitted all the accused of the charges framed against them.

Aggrieved from this judgment, revision petition was filed and the learned Sessions Judge, Bhiwani, vide judgment dated 28.8.2012 dismissed the revision. I have perused the record. Though in the head note it is written as revision against the judgment dated 4.9.2010, but in the

prayer clause it is written that the appeal may kindly be accepted and the judgment dated 4.9.2010 be set aside.

Without going into the technicality of law, on merit, I find that the judgments passed by the Courts below are correct as per evidence and law. Admittedly, Surasti PW-3 and her husband Amir Singh PW-4 are not the eye witnesses. They have not seen the occurrence. Only two witnesses Mool Chand and Dharam Singh are stated to be eye witnesses who have been examined. Both of these witnesses have not stated anything regarding the presence of third eye witness Kamal Singh. Further the occurrence took place on 29.7.2001 and the FIR was registered on 3.10.2001.

Next, the trial Court has discussed the statement of two eye witnesses. It has been stated that PW-1 has even not named other alleged witness Dharam Singh to have been present on the spot on the relevant date and time. The Court also discussed some of the contradictions in the statements of eye witnesses. The second eye witness Dharam Singh PW-2 has been examined. The Court held that this witness as per his testimony, is a regular witness in the cases filed by complainant-Surasti Devi. PW-1 Mool Chand has not named this witness Dharam Singh to be present at the spot. Further more, the occurrence took place on 29.7.2001 and the complaint was presented before the Police on 3.10.2001 i.e. after the delay of more than two months and there is no explanation regarding this delay and there was a reasonable apprehension regarding concoction of the version. It is also in the finding that the complainant tried to change the date of complaint to be 30.7.2001 after making some cutting in order to

cover the delay with which the complaint was lodged. The learned Sessions Judge also in his judgment dated 28.8.2012 discussed all these facts and held that civil litigation pertaining to sale was pending in the Court at that time and it was decided between the parties as per Panchayat decision Ex.D.2 that whatever decision would be given by the Court pertaining to the sale that will be binding on both the parties and Samadhi would be constructed thereafter at the place where Chandra Ram was cremated. Samadhi would not be constructed till the decision of the civil suit. The civil litigation was decided against the complainant party on 31.3.2006. The learned Sessions Judge also held that in the cross-examination of PW-4 Amir Singh-husband of the complainant, if it is appreciated in its totality, it is established that Samadhi was not existing at the spot.

Keeping in view the findings given by the Courts below, I find that the findings are as per evidence and law and cannot be held as perverse or against the evidence. Nothing has been pointed out as to what illegality has been committed by the Courts below. Nothing has been pointed out as to which material evidence has been misread by the Courts below and as to what material evidence has not been considered by the Courts below. The findings given by the Courts below are correct as per evidence and law which do not require any interference from this Court.

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

September 20, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No