

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.2606 of 2013

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Date of decision:17.2.2016

Jaswinder Kaur

...Petitioner

v.

Kuldeep Singh and others

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Dinesh Nagar, Advocate for the petitioner.

Mr. Sarju Puri, Advocate for respondents No.1 to 5.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent No.6-State.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 4.6.2013 passed by learned Additional Sessions Judge, S.B.S. Nagar (Nawanshahr), whereby the appeal filed by the complainant (appellant) against the impugned judgment of acquittal dated 5.10.2012 passed by learned Judicial Magistrate Ist Class, S.B.S. Nagar, has been dismissed.

Notice of motion has been issued in this criminal revision petition.

Mr. Sarju Puri, learned Advocate has put in appearance on

behalf of respondents No.1 to 5 and Ms. Shivali, learned Assistant Advocate General, Punjab has appeared on behalf of respondent No.6-State and contested this revision petition.

I have heard learned counsel for the parties as well as learned Assistant Advocate General, Punjab for the respondent-State and have gone through the record.

The brief facts of the case as mentioned in the judgment dated 4.6.2013 passed by the learned Additional Sessions Judge, S.B.S. Nagar (Nawanshahr), are as under:-

“Smt. Jaswinder Kaur wife of Surinder Singh stated in her statement that she is household lady. Her husband are two brothers. The partition of their house took place one month ago. They took two months time to construct the latrine, bathroom and hand-pump separately. They were given the right to use latrine, bathroom for two months. On 04.04.2007 at about 8.00 p.m. she went to latrine to ease her. Her father-in-law Mohinder Singh started to abuse her that why she was littering the latrine. When she came out from the latrine, then her father-in-law raised a lalkara that she be taught a lesson for using the latrine. In the meantime her sister-in-law (devrani) Balvir Kaur wife of Kuldip Singh caught hold her from her hairs. Her brother-in-law (devar) gave a blow of daat on her person which struck on the left side of her head. She was given kick blows by her father-in-law when she was lying on the

ground. She raised hue and cry. In the meantime her husband came at the spot. Then Harbans Singh son of Naranjan Singh gave a blow of dang on the head of her husband which struck on the forehead of her husband. In the meantime Balwinder Singh son of Kashmir Singh gave a blow of sota on the person of her husband which struck her husband on his arm. Her husband also fell down on the ground. Her brother-in-law Kuldip Singh and father-in-law Mohinder Singh gave kick blows to her husband. They raised hue and cry and then Karnail Singh son of Mansa Singh their neighbour came at the spot and accused ran away from the spot. Sohan Lal arranged the vehicle and got them admitted in the Civil Hospital Nawanshahr, where they are undergoing treatment. The accused have given these injuries to them having a common object. The motive behind the occurrence is that there was a partition between them and they were stopped from using the latrine and hand pump. Jaswinder Kaur signed on her statement which was attested by ASI Sukhdev Singh and statement of Jaswinder Kaur (Ex.PW-2/A) was sent by the Investigating Officer through his endorsement Ex.PW-2/B to the police station on which formal FIR Ex.PW-2/C was registered. The factum of registration of FIR was also mentioned on the statement of Jaswinder Kaur which is Ex.PW.2/D. The Investigating Officer visited the place of

[4]

occurrence and prepared the rough site plan. The accused were arrested vide memos Ex.PW.2/F and Ex.PW.2/G on 07.04.2007 and their personal search was conducted vide memos Ex.PW-2/J and Ex.PW.2/K. Copies of medico legal examinations of Surinder Singh and Jaswinder Kaur were also taken by the Investigating Officer into possession. The injury report was also taken into possession. Investigating Officer recorded the statements of witnesses and after completion of investigation, the report under Section 173(2) Cr.P.C. was presented in the Court.”

From the record, I find that it is a revision petition and in the revision petition, this Court has not to re-appreciate the evidence like a Court of appeal. This Court is only to see as to whether any illegality has been committed by the Courts below while passing the impugned judgments of acquittal. Nothing has been pointed out as to how the findings given by the Courts below are perverse or against the evidence or similarly which material evidence has been misread and which material evidence has not been considered by the Courts below.

A perusal of the record shows that there are only two injuries found on the person of Surinder Singh. One is laceration measuring 3 x 3.5 cm. on the frontal region of scalp skin deep reddish in colour. The patient complaint of pain and the second is an abrasion measuring 4.5 x 1.5 cm. on the antero medical aspect of the left upper arm 6.5 cm. from the shoulder joint reddish in colour. One injury was found on the person of Jaswinder

Kaur i.e. an incised wound measuring 4.5 x 1.5 cm. on the parietal occipital region of scalp bleeds on touch, reddish in colour. All these injuries have been declared simple.

The learned Judicial Magistrate Ist Class as well as the learned Additional Sessions Judge after discussing the evidence on record have found that the occurrence took place on 4.4.2007 and the FIR has been registered on 6.4.2007. As per the doctor's opinion both the injured were conscious, but no statement was got recorded to the Police. Even it is in the evidence that on 5.4.2007 Police came to the hospital and after obtaining the doctor's opinion that Jaswinder Kaur is fit to make statement Jaswinder Kaur did not make her statement on the excuse that she is not feeling well. The FIR had been got registered against father-in-law Mohinder Singh, Kuldeep Singh (Devar), Harbans Singh, Balwinder Singh and Balbir Kaur (Devrani). As per evidence Harbans Singh and Balwinder Singh reside at a distance from the house where the occurrence took place. The complainant's version that so many injuries with kick blows and fist blows etc. were attributed but only three injuries were found as stated above. The delay has not been explained. There is nothing on the record as to why the statement of Surinder Singh injured was not got recorded though he met the Police on 5.4.2007. The Court also discussed that no blood stained clothes were taken in police possession. No weapon was recovered in the present case. Both the Courts below after discussing the evidence in minute detail found that the prosecution has failed to prove the case beyond reasonable doubt. In no way, the findings given by the Courts below can be held as

[6]

perverse or against the evidence or law. The concurrent findings given by the Courts below are correct as per evidence and law and do not require any interference from this Court and the same are upheld.

Finding no merit in the criminal revision petition, the same is dismissed.

February 17, 2016.

(Inderjit Singh)
Judge

hsp