

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

CRR-2651-2013 (O&M)

Date of decision : 18.10.2016

Gorakh Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: None for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Sunil Saharan, Advocate for respondent Nos.2 to 5.

JITENDRA CHAUHAN, J.

The instant revision petition has been filed by the complainant-petitioner, impugning judgment dated 20.02.2013, passed by learned Additional Sessions Judge, Hisar (for short, 'the appellate Court'), whereby, the appeal preferred by accused-respondent Nos.2 to 5, against judgment of conviction dated 27.03.2010 and order of sentence dated 29.03.2010, passed by learned Judicial Magistrate 1st Class, Hansi, has been allowed and the accused-respondents have been acquitted in criminal complaint No.106-I of 2002, titled as 'Gorakh Singh Vs. Dalbir Singh and others'.

There is no assistance on behalf of the petitioner, however, it has been averred in the petition that the appellate Court erred in upsetting the judgment and the order passed by learned trial Court, which was based on correct appreciation of facts and evidence on record. It has been further averred that specific injuries have been attributed to the accused finds corroboration by the medical evidence.

On the other hand, learned counsel for the accused-respondents submits that there is an inordinate and unexplained delay of more than eight months in presenting the complaint. The incident took place on 07.11.2001, whereas, the complaint was moved before learned Judicial Magistrate 1st Class, Hisar on 23.07.2002. Earlier also, the parties had been engaged in criminal litigation and the complainant-petitioner and his sons were challaned by the police in a case which was registered by the present respondents. The alleged independent eyewitness, namely, Jaipal, was given up by the prosecution. There are material discrepancies in the statements of the prosecution witnesses which show that a false complaint had been got registered by the complainant.

I have perused the case file and heard learned counsel for the accused-respondents.

It has come on record that the parties had been engaged in criminal litigation for the past 7/8 years. It has been admitted by the complainant and the prosecution witnesses that about six months prior

to the alleged incident, the complainant and his son were challaned by the police in a complaint made by the accused party. It has further been admitted by the complainant that his son Satish had filed a criminal case against the accused 3/4 months thereafter. Therefore, the plea taken by the accused that the instant complaint is a counter-blast to the complaint filed by them against the complainant party cannot be said to be unfounded.

Another noticeable deficiency in the prosecution version is that the only independent witness, Jaipal, who was allegedly present on the spot at the time of the alleged occurrence, was given up having been won over. Except this witness, all the other witnesses are interested witnesses. It has also been stated by the complainant that he had narrated the incident to Ex-Sarpanch Krishan Kumar on the same very night but this witness was also not examined. Statedly, several people gathered at the spot and police also arrived there on that same very night but the complainant for the reasons best known to him did not mention the aforesaid facts in his complaint. Had it been the case, the police would have definitely registered a case in the matter.

The occurrence took place on 7.11.2001, whereas, the complaint was filed on 23.07.2002, after a delay of about eight months. The complainant has also not stated in his complaint Ex.PW3/A, dated 25.02.2002, about the inaction of the police or alleged collusion of ASI Hawa Singh with the accused. No plausible explanation has been put

forth for the huge delay of eight months.

As far as the alleged injuries suffered by the complainant, it has come in the evidence of PW1, Dr. Pale Ram, that injuries No.1 and 3 to 7 are simple in nature. He also opined that the injuries could have been suffered by friendly hand. He further opined that the probable duration of the injuries was 24 hours. Dr. Dinesh stated that injury No.2 was possible by fall on hard or uneven surface. He also admitted in his cross examination that there was bleeding on the injury. Therefore, the medical evidence cannot be said to be the clinching evidence, especially, in view of the fact that the complainant did not opt to go to the Community Health Centre situated in the village itself, but chose to visit Civil Hospital, which is situated at a considerable distance. PW1, Dr. Pale Ram has stated that the complainant was examined privately as he was not brought by any police official.

Learned trial Court, on the same set of evidence, has rejected the prosecution version qua accused Sonu, Phoola Devi, Kailasho and Mitro, but accepted the same qua accused-respondents herein.

Thus, it appears that the complainant has roped in the accused for wrecking vengeance on them and settling personal scores. From the perusal of the case file, this Court is of the considered opinion that the quality of evidence led by the prosecution is not sufficient to fasten the accused-respondents with criminal liability. This Court feels

that the impugned judgment of learned Appellate Court, setting aside the judgment of conviction and order of sentence passed by learned Trial Court, have been passed after proper appreciation of evidence on record and application of judicial mind.

Consequently, the present revision petition fails and is hereby dismissed.

18.10.2016
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No