

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Revision No.3493 of 2013

.....

Date of decision:10.2.2016

Bhanwar Singh

.....Petitioner

v.

Prem Devi and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. R.S. Chahar, Advocate for the petitioner.

.....

Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment of acquittal dated 24.9.2013 passed by learned Sessions Judge, Bhiwani, whereby the appeal filed by the accused/respondents against the judgment of conviction and the order of sentence dated 2.9.2011/3.9.2011 passed by the learned Judicial Magistrate Ist Class, Bhiwani, convicting and sentencing the accused for the offences under Sections 323, 452, 506 IPC read with Section 34 IPC for maximum sentence of rigorous imprisonment for two years, has been allowed and the accused have been acquitted.

I have heard learned counsel for the petitioner and gone through the record.

From the record, I find that a complaint was filed by Bhanwar

Singh against Prem Devi and Umed Singh for the offences under Sections 323, 452, 506 and 34 IPC alleging that the houses of the complainant as well as the accused persons are situated near Dholiya Kuan (well) and temple and the accused persons want to encroach upon the land of said well as well as temple forcibly and illegally and whenever the complainant stops them from doing so, then they threaten to kill him and for that reason the accused persons were keeping grudge with the complainant. It is also stated that on 25.8.2006 at about 2.30 p.m., when the complainant was present in his house, then the accused Prem Devi wielding 'Danda' and accused Umed Singh wielding an iron punch entered in his house with an intention to kill him and thereafter, both of them inflicted injuries on his person. On hearing the noise, several persons, namely, Om Singh, Bobby, Lekh Raj and other neighbour reached at the spot and rescued the complainant from the clutches of the accused.

After appreciating the evidence, the learned Judicial Magistrate Ist Class, Bhiwani, vide impugned judgment dated 2.9.2011 convicted the accused for the offences under Sections 452, 323 and 506 IPC read with Section 34 IPC and sentenced them to undergo rigorous imprisonment for maximum period of two years and to pay a fine of ₹1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of ten days for the offence under Section 452 IPC, besides sentencing them for the other offences. Aggrieved against this judgment, an appeal was filed before the learned Sessions Judge, Bhiwani. Learned Sessions Judge, Bhiwani vide judgment dated 24.9.2013 after appreciating the evidence

acquitted the accused. Aggrieved against this judgment dated 24.9.2013 passed by the learned Sessions Judge, Bhiwani, the present criminal revision petition has been filed.

I have gone through the impugned judgments passed by the Courts below, specially, the judgment dated 24.9.2013 passed by the learned Sessions Judge, Bhiwani.

A perusal of the record shows that in the present case the allegations have been levelled against the accused that Prem Devi gave injuries with 'Danda' and Umed Singh gave injuries with iron punch. The injuries have nowhere been proved on the record. The complainant had not examined him medico-legally nor any doctor was examined. There is nothing on the record that any treatment was taken from any doctor. As per the statement of the complainant, the iron punch blow was given on the head and blood oozed out from his both ears and after some time he fell unconscious. If this was the position, then the natural course was that first to provide medical treatment to the injured as the injuries were on vital parts of the body and blood was oozing out of both the ears and the person fell unconscious, but the complainant was not taken to hospital and has not been medico-legally examined. Secondly, the occurrence took place on 25.8.2006, but the matter was not reported to the Police. There is nothing on the record that till filing of this complaint on 29.8.2006, the matter was reported to the Police and there is no explanation as to why the matter was not reported to the Police. The complainant examined himself in the evidence as PW-1 and also examined witnesses Bobby alias Mukesh as PW-

[4]

2 and Lekh Raj as PW-3, but as per the version of the complainant, these persons and other persons reached on the spot after hearing the noise etc. therefore, one injury by Umed Singh and the other by Prem Devi might have taken one or two minutes only. So, these eye witnesses had reached on the spot later on. In view of the above facts and circumstances, I find that a reasonable doubt exists in the complainant's version and the injuries given to him etc. are not proved beyond a reasonable doubt. The reasoning given by the learned Sessions Judge, Bhiwani in the judgment dated 24.9.2013 are correct, as per evidence and law. Nothing has been pointed out as to how these findings are perverse or against the evidence. Nothing has been pointed as to which material evidence has been misread by the learned Sessions Judge and which material evidence has not been considered by him in right perspective.

Therefore, from the above discussion, I find that the impugned judgment dated 24.9.2013 passed by learned Sessions Judge, Bhiwani, is correct, as per evidence and law which does not require any interference from this Court and the same is upheld.

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

February 10, 2016.

(Inderjit Singh)
Judge

hsp