

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

**CRR No.1113 of 2015 (O&M)
Date of Decision: September 01, 2016**

Harjeet Singh

...Petitioner

VERSUS

Hari Singh and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jaswinder Singh Grewal, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Harjeet Singh against respondents Hari Singh and Gursewak Singh, challenging the impugned judgment dated 07.11.2014 passed by learned Addl. Sessions Judge, Fazilka, vide which the appeal filed by the accused-respondents was allowed and judgment of conviction and order of sentence dated 04.03.2014 passed by learned Sub Divisional Judicial Magistrate, Abohar, convicting and sentencing the accused-respondents under Section 323 IPC was set aside.

From the record, I find that a complaint was filed by Harjeet Singh against Hari Singh, Gursewak Singh and other accused under Sections 323, 324, 325, 148 and 149 IPC. The brief facts of the complaint as noted down in the judgment passed by learned SDJM, Abohar, are as under:-

“2. The present complainant has been filed by the complainant Harjeet Singh against the accused on the allegations that he is resident of village Bahawal Bassi and is an agriculturist. They are two brothers and he is elder whereas his younger brother is Hardeep Singh. It is alleged that on 8.6.2008 complainant alongwith son of his uncle namely Gawarna Singh has gone on his Eicher tractor to cultivate the land which they have taken on lease from Jagdev Singh son of Mukhtiar Singh. At about 11:00 AM Satwant Singh @ Satta whose land is adjoining to his land has asked the complainant that why he has kept cultivators in his field. The complainant replied that if he has kept the cultivators he will pick up the same. He (Satwant Singh) also said that if he does not pick up the cultivators then he will receive slaps and when complainant started arguing he (Satwant Singh) made call from mobile at his house and after 15/20 minutes Hari Singh son of Ishar Singh armed with danda, Gursewak Singh armed with dang came there and while coming they started hurling abuses to complainant and Hari Singh raised lalkara to catch the complainant and to teach him lesson for keeping cultivators in their fields. Hari Singh gave danda blow which hit on the back of complainant and when Gawarna Singh, son of his uncle came forward to rescue the complainant then Gursewak Singh gave stick blow on his left shoulder. They (complainant) also gave them fist and slap blows. Then aforesaid Hari Singh and Gursewak Singh went towards their Kotha. In the meantime Mehma Singh son of Bahadar Singh son of Babu Singh came at the spot on jeep alongwith Gurbaksh Singh armed with gandasa, Gurbaj Singh @ Gaji Singh armed with stick, Kewal Siungh armed with stick, Bija Singh armed with stick, Charan Singh armed with gandasi and Hari Singh armed with kasia and Gursewak Singh armed with dang also came from the side of Kotha, then Charan Singh raised lalkara to catch them and not to leave scot free. Gurbaksh Singh gave blow of gandasa which hit on back side of neck of complainant. Hari Singh gave kasia blow on the back of left shoulder of Gawarna Singh and another blow was caused on his person by Vijay which hit on his left shoulder. They raised alarm which attracted his father Darshan Singh and his aunt Manjeet Kaur @ Malkiat Kaur and on seeing them the accused fled away from the spot alongwith their respective weapons. All the accused gave them fist and slap blows and also threatened with dire consequences. Cause of enmity is that complainant has kept his cultivators in the land of accused on which Hari Singh etc., raised objection and due to that reasons the accused in connivance with one another have caused them injuries. The complainant was got admitted in civil hospital, Abohar. The matter was also reported to police of police station, police came in hospital and recorded their statement and assured to take action but did not take any action against the accused. Rather in connivance with the accused police registered false

FIR against the complainant. Hence, this complaint.”

On the basis of preliminary evidence, only Hari Singh and Gursewak Singh were summoned to face trial under Section 323 read with Section 34 IPC. Notice of accusation was served upon them, to which they pleaded not guilty and claimed trial.

The complainant Harjeet Singh examined himself as CW-1 and also examined DW-2 Darshan Singh, CW-3 Malkiat Kaur, CW-4 Head Constable Lekh Raj, CW-5 Gawarna Singh and CW-6 Dr.Gobind Aggarwal.

After the closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. and they denied the allegations of the prosecution and pleaded their innocence.

Learned SDJM, Abohar, after appreciating the evidence, convicted and sentenced the accused-respondents as stated above. Aggrieved from the above-said judgment of conviction and order of sentence, an appeal was filed by the accused-respondents and the same was accepted by learned Addl. Sessions Judge, Fazilka vide judgment dated 07.11.2014 and the accused-respondents were acquitted of the charges framed against them.

Aggrieved from the above-said judgment of acquittal, present revision petition has been filed by the petitioner-complainant.

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

I have gone through the judgment passed by learned Addl. Sessions Judge, Fazilka. Learned Addl. Sessions Judge, after appreciating the evidence held that in the medical evidence led on file, the complainant is

shown to have suffered three injuries, out of which one is on the right little finger of complainant Harjeet Singh whereas, the second injury is on lower back region of the complainant and third injury is on the back of his neck, where no external injury mark was seen by the doctor. Learned Addl. Sessions Judge held that a comparison of statements made by CW-1 and CW-6 shows that although, doctor has described three injuries suffered by the complainant but there is nothing in the statement of complainant regarding injury No.2. This is a major discrepancy coming on record. CW-5 stated that complainant Harjeet Singh had suffered injury on his lower back at the hands of Hari Singh but the complainant has not stated anything qua injury No.2. The Court further held that complainant has named nine persons in the present complaint and all of them are shown to be laced with deadly weapons but only three simple injuries are alleged to have been suffered by the complainant on his person. The injury No.3 was not even physically visible and it was only regarding pain on the back of his neck. The Court held that possibility cannot be ruled out that there is an exaggeration of facts while describing injury No.3 on the person of complainant Harjeet Singh. Only injury No.1 remains which is on the right little finger.

It is case of version and cross-version. The complainant has not explained the injuries on the person of the accused. The Court also discussed the evidence and found that reasonable doubt exists in the version of the complainant and acquitted the accused-respondents.

The perusal of the judgment passed by learned Addl. Sessions Judge, Fazilka show that findings have been given as per evidence and law

and reasonable doubt exists in the complainant's version. Nothing has been

pointed out as to which material evidence has been misread and which material evidence has not been considered. Nothing has been pointed out as to how the findings given by the learned lower Appellate Court are perverse or against the law.

In view of the above discussion, I find that the judgment dated 07.11.2014 passed by learned Addl. Sessions Judge, Fazilka, is correct, as per law and does not require any interference from this Court.

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

September 01, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No