

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

CRR-2065-2014

Date of Decision: 15.12.2016

Angrej Singh

... Petitioner

Versus

State of Punjab and Others

... Respondents

CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. K.S. Sidhu, Advocate
for the petitioner.

JITENDRA CHAUHAN.J.

This revision is directed against the judgment dated 04.02.2012, passed by Sub-Divisional Judicial Magistrate, Talwandi Sabo vide which respondent Nos. 2 to 10 were acquitted in FIR No. 28 dated 05.08.2010 registered under Sections 353, 186, 323 and 148 read with Section 149 IPC at Police Station Kot Fatta, and the judgment dated 13.05.2014, passed by Additional Sessions Judge, Bathinda whereby the appeal filed by the complainant was dismissed.

The brief facts of the case as noticed in the judgment passed by Additional Sessions Judge are noticed as under:-

“ Brief Facts of the case of the prosecution are that on 05.05.2010 Harbhagwan Dass, SDO, Electric Grid, Kot Shamir Submitted a complaint to ASI Shivraj Singh, when they were present at bus stand Kot Fatta. It was reported by him in his complaint bearing No. 486 dated 05.08.2010 that he was informed by his officials through

writing with regard to their beating by Mehma Singh @ Khalsa, Paramjit Singh, Makhan Singh, Dhata Singh, Chhinda Singh, Nimma Singh, Sukha Singh and Bahal Singh,. Angrej Singh ALM, and Gurbachan Singh, ALM were beaten by said persons and they had also misbehaved with JE Dev Singh and Baldev Singh Lineman and the occurrence took place at Chowk, Jassi Pau Wali. So, action be taken against them. On the basis of complaint, offence under section 353/186/148/149 of IPC was made out and by sending raga through PHG Surjan Singh case was got registered and his torn shirt was taken into police possession. Statement of witnesses were recorded. On 02.07.2010 accused Mehma Singh, Gursewak Singh, Nirmal Singh and Sukha Singh were arrested. Their search memo and arrest memo were prepared. On 11.08.2010 accused Shinda Singh was arrested. On 11.08.2010 Paramjit Singh Makhan Singh, Dhata Singh and Gurtej Singh were joined in the investigation in terms of order passed by the then learned Addl. Sessions Judge (FTC) Bathinda, Accused were released on bail. No clue was given qua unidentified persons. Supplementary challan would be presented on finding of any clue. I.O. reached the spot and prepared the site plan and recorded the statement of the witnesses and formally arrested accused in the present case and finally after the completion of the investigation, the challan against the accused was presented in the court, where copies of relevant documents were supplied to the accused as provided under Section 207 of Cr. P.C.”

Charges under Sections 353, 323 and 148 read with Section 149 IPC were framed against the accused to which the accused did not plead

guilty and claimed trial.

In order to prove its case, the prosecution examined PW-1, Harbhagwan Dass, PW-2, ASI Shivraj Singh IO, PW-3, Angrej Singh, PW-4 Gurbachan Singh, PW-5 HC Sulakhan Singh and thereafter closed its evidence.

The statements of accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing in the prosecution evidence were put to the accused. The accused denied the same and pleaded false implication.

In defence evidence Jagwinder Singh was examined as DW-1.

After appraisal of the evidence, Sub Divisional Judicial Magistrate, Talwandi Sabo vide judgment 04.02.2012 acquitted respondent Nos. 2 to 10.

Feeling dissatisfied, the complainant filed an appeal before Additional Sessions Judge, Bathinda which was dismissed vide judgment dated 13.05.2014.

Feeling aggrieved, the present revision petition has been filed assailing both the aforesaid judgments dated 04.02.2012 and 13.05.2014.

It is contended by the learned counsel for the petitioner that the Courts below have erred in acquitting the accused inasmuch as there was plethora of evidence on record to warrant the conviction of the accused. Minor variations in the deposition of witnesses are bound to occur if their statements are recorded after a gap of some time. This aspect of the matter has been lost sight of by the Courts below. Consequently, the accused are liable to be convicted and sentenced as per law.

I have heard, learned counsel for the petitioner and have gone through the case filed the trial court.

While acquitting the accused the trial Court has observed that PW-3, Angrej Singh who is stated to be the injured witness as per the case of the prosecution, has failed to tell the exact number of injuries suffered by him. It has been further observed by the Courts below that the MLR of the injured has not been produced on record rather the accused in their defence have produced medical record to show the demonstrate that PW-3, Angrej Singh was in a drunkard position at the time the incident is stated to have taken place. Further, the injured has failed to identify the accused in the Court. This Court is of the opinion that in the absence of ocular as well as medical evidence connecting the accused with the said incident, the accused cannot be fastened with the liability. There is delay in recording FIR as well which remains unexplained. Taking all these aspects into consideration, this Court does not find any reason to interfere in the judgment of acquittal passed by the Courts below.

Otherwise also, it is settled law as has been held in **C. Antony Vs. K.G. Raghavan Nair, 2002(4) RCR (Criminal) 750 (S.C.)** that even if a second view on appreciation of evidence is possible, the Court will not interfere in the acquittal of the accused. In the cases of acquittal, there is double presumption in his favour; first the presumption of innocence, and secondly the accused having secured an acquittal, the Court will not interfere until it is shown conclusively that the inference of guilt is irresistible. There is no compelling reason to interfere in the judgments of acquittal passed by the Courts below.

Consequently the present revision petition is dismissed.

15.12.2016
yogesh

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No