

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

CRR No.2777 of 2015 (O&M)

Date of decision : 20.12.2016

Kitab Singh

..Petitioner

Versus

Balbir Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Baldev Singh, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

The instant revision petition has been filed for setting aside the judgment dated 26.09.2014, passed by learned Additional Sessions Judge, Kaithal, whereby the appeal filed by the petitioner against the judgment dated 02.03.2012 passed by learned Judicial Magistrate 1st Class, Kaithal (for short, 'the trial Court') vide which the private respondents were acquitted in FIR No.188 dated 11.11.2005 registered under Sections 148, 323 and 325 of the Indian Penal Code (for short 'the IPC') read with Section 149 IPC at P.S. Kalayat, was dismissed.

The learned counsel states that impugned judgments passed by the learned trial Court as well as learned Addl. Sessions Judge are against the law and facts proved on the file and based on the surmises and conjectures. The MLR, Ex.PW5/A clearly shows that a lacerated wound on the left parietal region of the scalp cannot be self inflicted or by friendly

hands as the same is on the vital part of the body, therefore, it cannot be said that the said MLR was manipulated. The reason for the delay in medico legal examination is that the distance between the Kalayat Hospital and Kaithal is about 30 to 35 Kms. The manure pits in question are owned and possessed by the complainant/petitioner party. The Panchayati Faisla has not been proved in accordance with law. Thus, the impugned judgments are absolutely against the facts and deserve to be set aside.

I have heard the learned counsel and perused the entire record on file.

In **State of UP Vs. Ram Sajivan and others**, 2010 (1) SCC 529, the Hon'ble Supreme Court of India, observed as under:-

*“In the case of **Raj Narain v. State of U.P. & Others** [Criminal Appeal Nos. 891-892 of 2002 decided on 18.09.2009], this Court reiterated the aforesaid view and held that even if two views are reasonably possible, one indicating conviction and other acquittal, this Court will not interfere with the order of acquittal. However, this Court will not hesitate to interfere with such order if the acquittal is perverse in the sense that no reasonable person would have come to that conclusion, or if the acquittal is manifestly illegal or grossly unjust.”*

Furthermore, it has been held in **C. Antony Vs. K.G. Raghavan Nair**, 2002(4) RCR (Criminal) 750 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.

The dispute arose when the private respondents had obstructed the petitioner party from unloading the bricks to fill the foundation of the land in question. In the instant case, as per the compromise reached in Panchayat bearing the signature of the petitioner, the possession of lands between the petitioner and private respondents was to be exchanged on 11.11.2005 after the demarcation by the Revenue officials, however, no demarcation could be done on 11.11.2005. The execution of the said compromise was duly admitted by PW6-SI Prem Singh. Petitioner and the prosecution witnesses have made contradictory statements with regard to the role of the private respondents. The alleged occurrence took place at 12.30 p.m. and the medico-legal examination of the petitioner party was conducted at 3.00 p.m., after an inordinate delay of around 2½ hours whereas the respondents' party got their medico-legal examination at 1.15 p.m. at General Hospital, Kaithal, which is 30 Kms away from the place of incident. The petitioner has not given any satisfactory explanation with regard to this delay. The role of PW5-Dr. Kapish Gupta is also doubtful as he had sent the petitioner party to Kaithal for X-ray, despite the availability of the same at CHC, Kalayat. He had himself admitted that he did not send any Ruqa to the police. Hence, this Court does not find any ground to interfere with the impugned judgments, in exercise of its revisional jurisdiction, as no material evidence or any circumstance has come on

record to establish that there is any defect of procedure or improper acceptance or rejection of evidence by the learned Courts below. This Court feels that the impugned judgments have been passed after proper appreciation of evidence on record and application of judicial mind.

The present revision has been filed after an inordinate delay of 130 days, which has not been explained. Therefore, the present application i.e. CRM-24305-2015 for condoning the delay is also dismissed.

Consequently, the present revision petition fails on merits and is hereby dismissed, as well as barred by time.

20.12.2016

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No