

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.16019 of 2016
and
Criminal Revision No.1845 of 2016

.....

Date of decision:15.12.2016

Nachhattar Singh

...Petitioner

v.

State of Punjab and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Jatinder Singh Khokhan, Advocate for Mr. Ramandeep
Singh Pandher, Advocate for the petitioner.

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Inderjit Singh, J.

Cr. Misc. No.16019 of 2016:

This criminal miscellaneous application has been filed under
Section 5 of the Limitation Act read with Section 482 Cr.P.C. for
condonation of delay of 1245 days.

It has been mentioned in the application that the applicant-
petitioner earlier filed Criminal Misc. No.A-26-MA of 2013 in this Court
which has been withdrawn on 28.3.2016 with liberty to file the revision
petition. Therefore, in view of this fact the delay in filing the criminal
revision has occurred.

Keeping in view this fact as well as the averments mentioned in
the application, the delay of 1245 days in filing the criminal revision is
condoned.

The criminal miscellaneous application stands disposed of.

Cr. Revision No.1845 of 2016:

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 6.9.2012 passed by learned Additional Sessions Judge (Ad hoc), (Fast Track Court), Bathinda, whereby the appeal filed against the judgment of conviction and order of sentence dated 5.12.2011 passed by learned Judicial Magistrate Ist Class, Bathinda, has been accepted and the impugned judgment of conviction and order of sentence have been set aside and all the accused have been acquitted of the charges framed against them.

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

From the record, I find that Pritam Singh, Kulwinder Singh, Yadvinder Singh alias Yadu, Sukhwinder Singh (PO) were challaned in FIR No.3 dated 11.1.2006 registered at Police Station Nathana for the offences under Sections 336 and 506 IPC and Sections 25 and 27 of the Arms Act.

The brief facts as noted down by the learned Judicial Magistrate Ist Class, Bathinda, in the judgment dated 5.12.2011 are as under:-

“All the above named accused have faced trial before this Court on the allegations that on 10.1.2006, they fired a gun shot in a rash and negligent manner so as to endanger the life of complainant Nachhattar Singh with a gun which they were not authorized to use and also criminally intimidated the

complainant. It is imperative to note that the complainant Nachhattar Singh son of Jaggar Singh has two children namely Pritam Singh and Mohinder Singh. Out of the four accused, who have been tried by this Court, accused No.1 is Pritam Singh son of Nachhattar Singh (complainant) and the other three accused are the sons of Pritam Singh. After the presentation of the final report under Section 173 Cr.P.C. charge against the accused was framed on 6.7.2006. All the accused were collectively charged under Section 506 read with Section 34 IPC. Accused Kulwinder Singh was charged under Section 25 of the Arms Act having been found in possession of 12 bore gun without any permit or licence. Further accused Kulwinder Singh was charged under Section 336 of IPC for having rashly and negligently fired shots from this gun. Accused Yadwinder Singh was charged under Section 27 of the Arms Act for having illegally allowed Kulwinder Singh to carry and use the licensed 12 bore gun belonging to accused Yadwinder Singh.”

The learned Judicial Magistrate Ist Class, Bathinda, vide judgment and order dated 5.12.2011 convicted and sentenced accused Pritam Singh, Kulwinder Singh, Yadvinder Singh under Section 506 IPC and sentenced them to undergo rigorous imprisonment for one year each and to pay a fine of ₹250/- each and in default of payment of fine to further undergo rigorous imprisonment for one month each of the accused. Further Kulwinder Singh

was also convicted and sentenced to undergo rigorous imprisonment for one year and six months and to pay a fine of ₹500/- and in default of payment of fine to further undergo rigorous imprisonment for one month for the offence under Section 25(1-B)(a) of the Arms Act.

Aggrieved from the judgment and order, an appeal was filed before the Sessions Court and learned Additional Sessions Judge (Ad hoc) (Fast Track Court), Bathinda vide judgment dated 6.9.2012 accepted the appeal and acquitted the appellants (respondents herein). Aggrieved from the judgment of acquittal passed by the Sessions Court, the present revision petition has been filed by the complainant.

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

From the record, I find that nothing has been argued at the time of arguments as to how the findings given by the learned Additional Sessions Judge are perverse or against the evidence or law. Nothing has been argued as to which material evidence has been misread by the Court and which material evidence has not been considered by the Court below. The findings given by the learned Additional Sessions Judge (Ad hoc), Bathinda, are correct as per evidence and law. The learned Additional Sessions Judge has discussed that PW-2 Mohinder Singh had not seen the alleged occurrence and his evidence is hearsay as disclosed by his father Nachhattar Singh and there is no independent corroboration to the testimony of the complainant and even no independent witness was joined from the village at the time of raid of the accused despite availability of the same and

no body in the village had corroborated the version of the complainant with regard to the alleged occurrence. The learned Additional Sessions Judge also observed that the trial Court has rightly held that in case the gun fire had been shot from a distance of 20' – 25', then there should have been widespread dispersion of the pellets contained in the cartridge, but since there were no pellet mark near the gate and out wall of the house of the complainant, so, it also creates doubt in the version of the complainant. The learned Additional Sessions Judge further discussed the delay of 20 hours in getting the FIR registered, which has not been explained by the complainant or his son Mohinder Singh. Further more, the trial Court also acquitted the accused under Section 336 IPC. A perusal of the statement of complainant Nachhattar Singh as PW-1 further shows that during cross-examination, he stated that fire shot was made at 10.30 a.m., but he had not seen the accused. He further testified that he had not seen the pellets and empty cartridges at the spot nor there was any fire shot mark on the wall or the gate. He also testified that the accused did not try to inflict injuries to him with 'Gandasa'. He further stated in his statement that hearing the noise of fire shot, the entire village gathered at the spot, but he and his son had not given any information to the respectable persons of the village.

Keeping in view the fact that the parties are closely related, PW-2 Mohinder Singh has stated during cross-examination that his father had disclosed him regarding the occurrence and in view of the fact that PW-1 has also stated in cross-examination that he had not seen the accused firing shots from the weapon, creates a reasonable doubt in the prosecution

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version.

Therefore, keeping in view the above facts, I find that the findings given by the learned Additional Sessions Judge are as per evidence and law and do not require any interference from this Court.

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

December 15, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No