

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

**CRR No. 3530 of 2015
DECIDED ON: FEBRUARY 02, 2016**

INAM

....PETITIONER

VERSUS

MEHFOOJ AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Umesh Kumar Kanwar, Advocate,
for the petitioner.

JASPAL SINGH, J.

Dissatisfied with the acquittal of respondent No.1-Mehfooj vide judgment dated May 27, 2014 passed by Chief Judicial Magistrate, Mewat, which has been upheld by Id. Sessions Judge, Mewat vide judgment dated July 27, 2015, the complainant has preferred the instant revision petition.

2. The facts necessary for the disposal of the instant revision petition are that on October 11, 2010, complainant got registered FIR to the effect that at about 2/2:30 p.m. in the hillock area, Mehfooj took out a knife and open attack on him. He inflicted knife blows and robbed him of ₹16/17,000/-. Some how, he reached Badoji where Bhagwan Dass and Sohan Lal met him and they rushed him to the hospital. During investigation respondent-accused was arrested and

after completion of the usual formalities report under Section 173 Cr.P.C. was presented in the Court of ld. trial court against respondent-accused.

3. After scrutinizing the report under Section 173 Cr.P.C. and the documents annexed with it, respondent-accused was charge-sheeted to face trial under Sections 323, 324 and 506 IPC, to which he did not plead guilty and claimed trial. The prosecution led its evidence to substantiate the charge framed against him and after perusal of material evidence brought on record as well as legal factual position, the lower court has acquitted the respondent-accused.

4. Feeling dissatisfied with the acquittal of respondent-accused by the ld. trial court, the complainant preferred an appeal before ld. Sessions Judge, Mewat but that was also dismissed. Accordingly, he approached this court by way of instant revision petition.

5. The contention of learned counsel for the petitioner is that the ld. trial court as well as lower appellate court has committed grave error while extending the benefit of doubt and acquitting the respondent-accused, especially, in view of the fact that complainant-Inam appeared in the witness-box as PW-5 and has reiterated the version earlier unfolded by him to the police on the basis of which FIR was registered. His statement further finds corroboration from the medical evidence, which has already been illegally ignored and disbelieved by both the courts below that too without assigning any cogent reason.

6. No doubt, the prosecution has examined as many as 5 witnesses including complainant -Inam PW-5 but here, it would be pertinent to mention that complainant-Inam appeared in the witness-box as PW-5 and after he was partly cross-examined, his further cross-examination was deferred for after

lunch session on the request of counsel for the complainant on March 27, 2014 but for the reasons best known to the complainant-petitioner, he did not turn up for further cross-examination in the post lunch session. Meaning thereby, that he was not fully cross-examined by the defence. His part statement cannot be read as evidence to the detriment of the respondent-accused especially in the circumstances that he did not opt to get him further cross-examined and slipped away from the proceedings. As far as the testimony of PW-3 and PW-4 is concerned, their statements are discrepant on material points. Even respondent-accused was not present at the time of occurrence or causing alleged injuries to the petitioner. There is no corroboration to the injuries as reflected in MLR, which are alleged to have been suffered by him. Moreover, the case property has also been produced during the course of trial and there is not an *iota* of evidence to establish that recovery of knife was denied during the course of investigation. Statement of complainant-injured also cannot be taken into consideration as the respondent-accused did not get full opportunity of being heard to cross-examine the complainant-injured. No liability can be fastened on the basis of perfunctory nature of testimony of complainant-Inam. In fact, it can be safely concluded that there is no evidence what to say of any cogent or convincing evidence adduced on record by the prosecution that it was the respondent-accused, who caused injuries to Inam.

7. Thus, this Court is of the considered view that respondent-accused has rightly been acquitted by the Id. Chief Judicial Magistrate, Mewat and further that his acquittal has been rightly affirmed by the Id. Sessions Judge, Mewat. Moreover, it is also well established that accused is presumed to be innocent unless the charges are framed against him and with his acquittal, his

innocence stands fortified. In the case in hand, the acquittal of the respondent-accused has also been affirmed by ld. Sessions Judge. This court does not find any merit in the instant revision petition. Rather, it can be said that there is no trustworthy evidence to observe that the charge framed against the respondent is established.

8. In the light of what has been discussed above, this Court does not find any merit in the instant revision petition. As such, the same stands dismissed whereby the impugned judgments passed by both the courts below are upheld.

FEBRUARY 02, 2016
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(JASPAL SINGH)
JUDGE