

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

**Criminal Revision No.4126 of 2015 (O&M)
Date of Decision: 17.03.2016**

Kamaljit Singh

...Petitioner(s)

Versus

Paramjit Kaur & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

- 1. Whether reporters of local newspapers may be allowed to see judgment?*
- 2. To be referred to reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present:- Mr. Gaurav Sharma, Advocate
for the petitioner.

HARI PAL VERMA J.(Oral)

CRM-35568-2015:

For the reasons mentioned in the application which is supported by an affidavit of the petitioner, delay of 43 days in filing this revision petition is condoned. The application is disposed of.

Main case:

Petitioner has filed the present revision petition against judgment dated 15.5.2015 passed by learned Additional

Sessions Judge, Shaheed Bhagat Singh Nagar whereby his appeal against the judgment dated 14.10.2014 passed by Sub Divisional Judicial Magistrate, Balachaur (SBS Nagar), acquitting respondents no.1 to 3 of the charge framed against them, has been dismissed.

Briefly stated, FIR No.59 dated 24.10.2009 under Sections 323, 325, 34 IPC, Police Station Kathgarh was registered against the respondents-accused with the allegations that on 22.10.2009 at about 5.30 a.m., accused Paramjit Singh caused grievous hurt to Kamaljit and simple hurts to Beant Singh with blunt weapon whereas accused Jasdeep Singh caused simple hurts to Beant Singh with blunt weapon. After recording the statement of Beant Singh in hospital, the Investigating Officer sent *ruqa* to the police station, on the basis of which, FIR was registered and challan under Section 173 CrPC was presented against the respondents-accused and copies of the documents relied upon by the prosecution were supplied to the respondents-accused free of cost in compliance of Section 207 CrPC. Finding *prima facie* case under Sections 323, 325 and Section 34 IPC against the respondents-accused, they were charge-sheeted vide order dated 22.2.2010, to which they pleaded not guilty and claimed trial.

Prosecution examined PW-1 HC Ram Kishan, PW-2 Dr. Dyal Sarup, PW-3 Ram Saroop, PW-4 Beant Singh and PW-5 Kamaljit Singh. However, when no other witness was examined

despite numerous opportunities, including the last opportunity, wherein summons were sent through SHO concerned, the evidence of the prosecution was closed by order.

Statements of the accused were recorded under Section 313 CrPC, wherein they pleaded false implication. However, no evidence was led on their behalf in defence.

Learned trial Court after hearing learned counsel for the parties and appreciating the oral as well as documentary evidence on record, acquitted the respondents-accused of the charge framed against them by giving them the benefit of doubt, holding that there was no satisfactory explanation for the delay of one day in getting the medical assistance and further delay of two days in getting their statements recorded with the police, especially when the police itself had approached the injured-complainant on the very day of their admission in the hospital on 23.10.2009. It was held that the FIR was registered on 24.10.2009 after recording the statement of the complainant and there is no explanation as to why the matter was not immediately reported to the police on the day of incident which had occurred on 23.10.2009.

The petitioner preferred appeal against the judgment of acquittal dated 14.10.2014 passed by the trial Court, however, the same was also dismissed by learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar vide judgment dated 15.5.2015 observing as under:-

“12. Now, coming back to the evidence of Kamaljit Singh PW-5, it does not inspire any confidence and the accused persons can not be convicted on his sole testimony. PW-5 has stated in his examination-in-chief that when he came to know that Paramjit Singh was cutting down his trees, he along with complainant Beant Singh, immediately gave a complaint to DSP Balachaur in that regard. Thereafter, a Home Guard namely Surjit Singh was sent alongwith Kamaljit Singh and when he reached his home, Beant Singh also came there. It is stated that thereafter Paramjit Singh, his wife Paramjit Kaur, their son Jaspreet and Mangal Dass came in his house and gave beatings to Beant Singh and Paramjit Singh. If Kamaljit Singh sustained injuries on 22.10.2009 he could have immediately informed the incident to the police, but he failed to do so for the reasons best known to him. He has admitted in his cross-examination that from the date of admission in the hospital till his discharge on 27.10.2009 he was in his conscious state of mind and yet he did not inform the incident to the police. PW-5 has further admitted in his cross-examination that on the complaint of Paramjit Kaur a case had been registered against him, Beant Singh and other persons, which was pending in the court. This goes a long way to show that Kamaljit Singh PW-5 and Beant Singh PW-4 could be the aggressor party, due to which Paramjit Kaur got registered a case against them. PW-5 has admitted that from 22.10.2009 to 25.10.2009 he did not meet any police officer and only on 27.10.2009 after discharge from the hospital and after 5 days from the date of incident, he informed the incident to the SHO. The inordinate delay in reporting the matter to police, despite the fact that Kamaljit Singh who was

allegedly injured, was fully conscious to make the statement. Kamaljit Singh PW-5 has further admitted that his partition case against Paramjit Singh was also pending in the court which proves that there was a previous enmity between the parties and hence the false implication of the accused persons cannot be ruled out.”

Aggrieved against the judgments passed by the Courts below, the petitioner has filed the present revision petition.

Learned counsel for the petitioner has contended that the case of the petitioner has been discarded on the ground that the Investigating Officer as well as the complainant-Beant Singh have not been cross-examined and therefore, their examination-in-chief has no value, but the Courts below have failed to appreciate that the Investigating Officer has not been examined as he had expired and the petitioner is injured in this case and his injuries were duly proved. He further argued that the petitioner received multiple injuries on his person which have been duly proved by PW-2 Dr. Dyal Sarup, Medical Officer and therefore, on the basis of medical as well as ocular version, case of the prosecution has been fully proved beyond reasonable doubt.

I have heard learned counsel for the petitioner and perused the impugned judgments.

There is concurrent findings of fact recorded by both the Courts below which is based on evidence on record and thus,

there is no scope for interference by this Court in revisionary jurisdiction by re-appreciating the evidence. Reference may be made to judgment of Hon'ble the Apex Court in the case of **Johar and others Versus M/s Mangal Prasad and another 2008(3) SCC 423**, wherein Hon'ble Apex Court while dealing with the scope of interference by High Court in the revisional jurisdiction, has observed as under:

“17. The approach of the High Court to the entire case cannot be appreciated. The High Court should have kept in mind that while exercising its revisional jurisdiction under Sections 397 and 401 of the Code of Criminal Procedure, it exercises a limited power. Its jurisdiction to entertain a revision application, although is not barred, but severally restricted, particularly when it arises from a judgment of acquittal.”

Even otherwise, there is no explanation for delay in lodging the FIR, as the petitioner has admitted in his cross-examination that from the date of admission in hospital till his discharge on 27.10.2008, he was in conscious state of mind, yet he did not inform the incident to police in time. He has further admitted that on a complaint of accused Paramjit Kaur another case was registered against him, Beant Singh and other persons, which is pending in Court and therefore, there is previous enmity between the parties and hence, false implication of the respondents-accused cannot be ruled out. Moreover, unless a

witness is cross-examined, no credence can be given to his examination-in-chief.

In view of the above, I find no reason to interfere with the impugned judgments passed by the Courts below.

Accordingly, the revision petition is dismissed.

March 17, 2016
AK

(HARI PAL VERMA)
JUDGE