

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

CRR No.996 of 2014 (O&M)

Date of Decision: September 05, 2016

Gurnam Singh

...Petitioner

VERSUS

Ajit Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rajinder Sharma, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Gurnam Singh against Ajit Singh and other respondents, challenging the impugned judgment dated 27.05.2008 passed by learned Judicial Magistrate Ist Class, Amritsar, vide which the accused-respondents were acquitted of the charges framed against them and also challenging the judgment dated 11.11.2013 passed by learned Addl. Sessions Judge, Amritsar, vide which the appeal filed by the petitioner was also dismissed.

From the record, I find that the challan was presented against accused-respondents in case FIR No.201/2000 under Sections 452, 441, 447, 427, 380, 148 and 149 IPC registered at Police Station Sadar Amritsar. The brief facts of the case as noted down in the judgment passed by learned JMIC, Amritsar, are as under:-

report under Section 173 Cr.P.C. are that on 1.8.2000 ASI Lakha Singh along with other police officials was present at the curve of village Naushehra Kalan, Amritsar in connection with patrolling where complainant Shri Gurnam Singh came present and got recorded his statement to the effect that he is resident of village Pandori Waraich and is an agriculturist. He along with his sons Lakhbir Singh, Manjit Singh and Mason Shri Kewal Singh were constructing shops on their land bearing khasra No.19/14 measuring 3 kanal 8 marlas and at about 5/6.00 P.M. Ajit Singh, Narinder Singh, Didar Singh, Sukhdev Singh, Rajsukhwinder Singh, Gurbinder Singh armed with kirpans anddangs came at the spot and started raising lalkaras and claiming that who are they to construct the shops on their land. On that Ajit Singh raised a lalkara that caught hold of them and on this they came out of their shops. In the meantime all the accused demolished the shops constructed by the complainant. On that the sons of the complainant raised raula of marditta marditta and on that all the accused ran away from the spot along with their respective weapons and while going they have taken away the articles, i.e. Kahies and baltas of the complainant. The whole of the occurrence was witness by Shri Kewal Singh Mason.

2. His statement was sent to the police station through C.Anil Kumar on the basis of which present case was registered. Investigation was conducted. Accused were arrested. Police party went to the spot and photographs of the spot were also taken. On completion of formal investigation, present challan was presented in the court.”

Learned JMIC, Amritsar, after appreciating the evidence, acquitted the accused-respondents. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Amritsar, vide judgment dated 11.11.2013.

Aggrieved from the above-said judgments, present revision petition has been filed.

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

From the record, I find that learned Magistrate found that PW-1 Gurnam Singh while appearing in the witness box, in his cross-examination, has admitted that Ajaib Singh filed a suit against him in the

court of the then learned SJIC, Amritsar. He also admitted that suit pertains to khasra No.19/14(3-8). The Court further held that Ex.D1 shows that the suit filed by Ajaib Singh was decreed against the present complainant and held that the claim of the complainant that they are in possession of the suit property is not tenable.

At the time of arguments, learned counsel for the revision petitioner argued that learned District Judge in the appeal, has set aside the judgment of decree and RSA is pending before this Court. Learned counsel for the petitioner admitted that petitioner has not produced any revenue record to show his possession over the property.

The Court below further held that PW-5 Lakhbir Singh, son of Gurnam Singh complainant, is an interested witness. PW-6 Kewal Singh deposed in cross-examination that he cannot tell the names of the accused and the same have been disclosed by the complainant. PW-8 ASI Sawinder Singh deposed that he has not considered the revenue record of the property in question. PW-9 Kamalapuri has deposed in his cross-examination that he does not know about the dispute pending between the parties.

Learned Magistrate held that from the evidence on the file, the complainant has failed to prove his case and from the documentary evidence produced by the accused, it is proved that it was accused who was in possession of the disputed land for the last number of years. The Court further held that complainant failed to prove the possession over the property in question by leading cogent evidence.

The findings given by learned JMJC, Amritsar are as per evidence and law. In the appeal also, learned Addl. Sessions Judge,

Amritsar held that prosecution has not produced on file any document of

title and possession of the complainant Gurnam Singh and his sons upon the suit property. The litigation is still pending in the civil courts and the judgment Ex.D1 produced by the accused is in favour of the accused. Learned Addl. Sessions Judge, Amritsar also discussed that in the RSA, the parties were directed to maintain status quo with regard to the possession of the suit land till further orders as per Ex.D4.

So, I find that the findings given by the Courts below are correct, as per evidence and law. In no way, the findings can be held as perverse or against the law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the Courts below. This is a revision petition. In the revision petition, this Court is not to re-appreciate the evidence like Court of an appeal.

In view of the above discussion, I find that the impugned judgments passed by the Courts below are correct, as per law and do not require any interference from this Court.

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

September 05, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No