

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

CRM-A-1090-MA-2014 (O&M)

Date of decision : 06.03.2017

Joginder Singh

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Kamal Jeet Singh Sidhu, Advocate,
for the appellant.

Mr. Luvinder Sofat, Assistant Advocate General, Punjab,
for respondent No.1.

Mr. S.S.Bhinder, Advocate,
for respondent Nos.2 to 5.

JITENDRA CHAUHAN, J. (ORAL)

The appellant seeks leave to appeal against judgment dated 07.02.2014, passed by the learned Sub Divisional Judicial Magistrate, Talwandi Sabo (for short, 'the trial Court'), thereby acquitting the accused-respondents in Criminal Complaint No.31 of 26.08.2009 under Sections 427, 342, 506, 120-B and 34 of the Indian Penal Code (for short, 'IPC').

Brief facts of the case in hand, as noticed in the opening paragraph of the impugned judgment, read as under:-

“1. Complainant Joginder Singh has filed present complaint U/s. 427, 342, 506, 120-B, 34 IPC against the above named accused with the submissions that the complainant is Ex-Patwari and he is a heart patient. Accused Ram Singh and Jagsir Singh had cases with complainant, due to which they nourished a grudge. Complainant has land at Kot Bhara and has adjoining boundary with Jagsir Singh. Complainant has planted

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Popular trees in his land. On 13.06.2009 at about 4.00 PM, complainant had gone to his fields, when Jagsir Singh armed with axe, Nikka Singh armed 'dhangi' were found cutting trees belonging to complainant. Complainant restrained them from doing so, but they had a scuffle with the complainant and told that they would not only cut the trees but also burn the same. Accused Jagsir Singh then loaded the wooden pieces, that had been cut from the branches over the bullock cart. Due to fear, he did not went near them. Accused Jagsir Singh and Nikka Singh then put the grass and the bushes on fire. Popular trees of complainant were burnt and complainant suffered a damage of Rs.7,000/-. Both accused fled away and complainant got photographs of cut and burnt trees clicked.

2. It has further been averred that on 14.6.2009, complainant moved an application to S.H.O. Mukhtiar Singh which was marked to HC Sukhdarshan Singh. On 21.6.2006, he visited the spot and Nikka Singh and Jagsir Singh were also called to the police station on 22.6.2009. As he reached police station to inquire about his complaint on 22.6.2009, Ram Singh, Ex-Sarpanch, cousin brother of Jagsir Singh also visited the police station. HC Sukhdarshan Singh reported the matter to officer incharge. HC Sukhdarshan Singh submitted false report. Complainant requested HC Sukhdarshan Singh

to make report as per the spot, on which he got angry and accused along with Ram Singh, Ex-sarpanch started speaking against complainant. Accused Ram Singh then narrated that complainant is not mentally fit and he should be confined. The complainant told SHO Mukhtiar Singh that he is a heart patient and had got his by-pass surgery. Accused were exceeding their limits and they should be stopped. SHO Mukhtiar Singh then confined him illegally. It was about 5-6 PM, Jaswinder Singh son of complainant along with their relative Karnail Singh son of Balvir Singh came to the police station where they found complainant confined. In the meanwhile, SHO Mukhtiar Singh, who had visited the spot, came and was satisfied with the damage sustained by complainant. Son of the complainant and Karnail Singh then asked Mukhtiar Singh, SHO as to why they had confined complainant illegally. Complainant was then taken out. Police failed to register any case against the accused but just initiated proceedings u/s 107/151 Cr.P.C. On 11.7.2009 the matter was reported to SSP, Bathinda through an application and also to DIG, Bathinda on 14.7.2009 but no action was taken by the police. Hence, the present complaint.”

The complainant got recorded preliminary evidence and on finding a prima facie case, the accused/respondents were ordered to be

summoned to face trial under Sections 427, 506 and 342 read with Section 34 IPC, vide order dated 22.03.2011.

In order to prove his case, the complainant/appellant examined Karnail Singh as CW1, his son Jaswinder Singh as CW2, HC Chhinderpal Kaur as CW3, complainant himself appeared as CW4 and HC Prem Kumar as CW5 and tendered some documents. Thereafter, the complainant closed his evidence.

The statements of the accused/respondents under Section 313 Cr.P.C. were recorded, to which they denied all the allegations and pleaded innocent and opted to face trial.

In defence, accused/respondents examined Gurpreet Singh, Junior Assistant, DC Office, Bathinda as DW1, Gurdev Singh as DW2 and tendered certain documents and thereafter closed their defence evidence.

After hearing learned counsel for the parties and appreciating the evidence on record, learned trial Court dismissed the complaint and acquitted the accused-respondents of the charges framed against them.

Hence, the instant application.

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

In the present case, except for the testimony of the complainant himself, there was no independent corroboration of his version either in the shape of oral or documentary evidence. Although, the complainant had placed on record report of police official regarding spot inspection on 22.06.2009, Ex. C-4 and photographs of the trees that had been allegedly damaged, Mark CA to Mark CC, however, there was no corroboration of the

same. In the report, Ex. C-4, minor damage to two trees was reported. The complainant has not placed any evidence worth the name, report prepared by any authority to ascertain extent of damage allegedly suffered by him. There is no evidence to show that the alleged damage had been caused by the accused persons, especially, when the complainant has admitted in most unambiguous terms that immediately after the incident, he had not informed any person, much less respectable person of the village. As a matter of fact, he went to his house at Bathinda without informing the police officials. All these circumstances unerringly and indisputably point towards the innocence of the accused who certainly deserves to be acquitted by giving benefit of doubt.

In *State of UP Vs. Ram Sajivan and others*, 2010 (1) SCC 529,

Hon'ble the 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.”

It is a settled law as has been held in ***C. Antony Vs. K.G. Raghavan Nair*, 2002(4) R.C.R. (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 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.

In view of the above discussion, this Court is of the considered opinion that the findings recorded by the trial Court are based on correct appreciation of facts and evidence on record and no illegality or perversity can be said to have been committed by it. The complainant/appellant has miserably failed to prove her case against the accused-respondents beyond a shadow of reasonable doubt.

Therefore, the present appeal is dismissed and the impugned judgment rendered by the trial Court is affirmed.

06.03.2017
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No