

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

CRR-2884-2013

Date of decision:-15.12.2017

Makhan Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.T.P. Singh, Advocate
for the petitioners.

Ms.Samina Dhir, DAG, Punjab.

H.S. MADAAN, J.

This revision petition is directed against the judgment dated 8.4.2013 passed by learned Additional Sessions Judge, Sangrur vide which he had dismissed an appeal against judgment dated 15.9.2010 passed by Additional Chief Judicial Magistrate, Sangrur, in terms of which he had convicted accused Nanak and Ajay Kumar for an offence under Section 323 IPC and also convicted accused Makhan Singh for the offence under Section 325 IPC, whereas acquitted accused Brahmjit Singh, Jinder Singh, Jagdev Singh, Surjit Singh and Bhola Singh and also

acquitted accused Makhan Singh, Nanak Singh and Ajay Kumar for the offences under Sections 148, 341, 506 and 149 IPC. However, accused Makhan Singh, Nanak Chand and Ajay Kumar were released on probation on their furnishing probationary bond in the sum of Rs.10,000/- with one surety each in the like amount, giving undertaking to keep peace and be of good behaviour and to appear before the Court as and when called upon during the next period of one year. Bonds were accordingly furnished.

The accused-convicts – Makhan Singh and others, who are petitioners before this Court prays that the revision be accepted, the impugned judgment of their conviction and order of sentence passed by Additional Chief Judicial Magistrate, Sangrur and judgment in appeal passed by Additional Sessions Judge, Sangrur be set aside and they be acquitted of the charge framed against them.

Briefly stated, facts of the case as per prosecution story are that FIR was registered on the basis of statement of complainant Ram Dass, which he got recorded with ASI Gurdeep Singh on 8.3.2007, wherein he stated that he is resident of Balad Kothi and is a labourer; that his younger brother Hari Dass used to run a tea shop in the form of a *Khokha* at Balad crossing along with his other brother Charan Dass; that on 8.3.2007 at about 1:30 p.m., when the complainant along with his brother and father was sitting in front of their tea shop, then Makhan Singh son of Jethu Ram, his brother Brahmjit and Ajay Kumar son of Surinder Kumar gathered there; that Makhan Singh was armed with a cricket bat and he started abusing them by giving bat blow on the head of Lajja Ram; that accused Ajay Kumar gave a *danda* blow on the left hand

of Charan Dass; that complainant raised an alarm, then accused Makhan Singh brought *khurchana* (scrubber) from their shop and hit the complainant with it finding the target on his right hand; that on hearing noise, mother of the complainant Krishna Devi came to the spot and raised hue and cry; accused Makhan Singh gave scrubber blow on the palm of left hand of his mother; that during the scuffle, opposite party had also received injuries; that injured were taken to Civil Hospital, Bhawanigarh, where they were admitted; that in the meanwhile, Nanak Chand armed with a stick, Jinder Singh, Jagdev Singh and Surjit Singh and Bhola Singh reached in the hospital and gave fist blows and stick blows to Hari Dass brother of the complainant. The motive behind the occurrence is stated to be that there was altercation between the parties with regard to drain water. On the basis of such statement, formal FIR was registered. The matter was investigated. Accused were arrested. After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Area Magistrate.

Copies of documents relied upon in the challan were supplied to the accused free of costs as provided under Section 207 Cr.P.C.

Learned trial Magistrate finding that charge for offence under Sections 148, 341, 323, 506 and 149 IPC was disclosed against the accused, charge-sheeted them for the said offences, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of the prosecution.

To bring home guilt to the accused, the prosecution examined as many as six witnesses i.e. PW1 Dr.Priya Gupta, PW2 Ram

Dass, PW3 Lajja Ram, PW4 ASI Gurdeep Singh, PW5 HC Sarbjit Singh and PW6 Pawan Kumar.

With that the prosecution evidence stood closed.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against them were put to them but they denied the allegations contending that they are innocent and have been falsely involved in this case.

Accused did not lead any evidence in his defence.

After hearing arguments, learned Additional Chief Judicial Magistrate, Sangrur had convicted accused Nanak and Ajay Kumar for the offence under Section 323 IPC and also convicted accused Makhan Singh for the offence under Section 325 IPC, whereas acquitted accused Brahmjit, Jinder Singh, Jagdev Singh, Surjit Singh and Bhola Singh and also acquitted accused Makhan Singh, Nanak Singh and Ajay Kumar for the offences under Sections 148, 341, 506 and 149 IPC. However, accused Makhan Singh, Nanak Chand and Ajay Kumar were released on probation as mentioned supra. The appeal preferred against the judgment of conviction and order of sentence passed by the Additional Chief Judicial Magistrate, Sangrur was also decided against the accused by learned Additional Sessions Judge, Sangrur, which left petitioners – accused Makhan Singh and others aggrieved and they have filed the present revision petition.

I have heard learned counsel for the petitioner-accused-convicts and learned Deputy Advocate General for the State of Punjab besides going through the record and I find that there is no merit in the

revision petition.

During the trial, the complainant Ram Dass, injured author of the FIR as well as Lajja Ram injured had provided the eye-witness account of the incident supporting the prosecution story on material aspects, as regards both parts of the incident, the earlier part, which had taken place near the tea-shop of Hari Dass and the other at Civil Hospital, Bhawanigarh. Both the eye-witnesses were cross-examined at length but they could not be shattered on any material point. The complainant and Lajja Ram having suffered injuries in the incident are stamped witnesses and their presence at the spot cannot be doubted and account given by them is worthy of reliance. The prosecution has explained the injuries on the person of accused party also. The ocular evidence is duly supported by the medical evidence. PW1 Dr. Priya Gupta, who on 8.3.2007 had medico legally examined Ram Dass – complainant and other injured persons deposed in that regard. The injuries found on the person of Ram Dass, Krishna Devi, Hari Dass and Lajja Ram were simple in nature, however an injury on the person of Charan Dass was declared grievous in nature having been caused with a blunt weapon. The investigation in this case has been conducted in a fair and impartial manner. The Investigating Officer had no reason to involve the accused in this case wrongly, challan them falsely or to depose against them to secure their conviction. The motive behind the incident was there. The trial Court was justified in convicting the accused Makhan Singh, Nanak Chand and Ajay Kumar whereas acquitting accused Brahmjit, Jinder Singh, Jagdev Singh, Surjit Singh and Bhola Singh. The trial Court was considerate enough to grant

benefit of probation to accused/convicts Makhan Singh, Nanak Chand and Ajay Kumar. The Appellate Court was justified in dismissing the appeal filed against judgment by the trial Court.

The law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse. Merely because another view in the matter is possible, no inference with such judgment is to be done.

The prosecution had successfully proved its charge against the accused beyond the shadow of reasonable doubt. I find no illegality or infirmity in the judgments passed by the Courts below, as regards the conviction and sentence part, those are upheld and revision petition is found to be without any merit and is dismissed accordingly.

15.12.2017

Brij

(H.S.MADAAN)**JUDGE****Whether reasoned/speaking : Yes/No****Whether reportable : Yes/No**