

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.1335 of 2015

.....

Date of decision:10.3.2017

Sohan Lal

...Petitioner

v.

Prabhu and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Sanjay Jain, Advocate for the petitioner.

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Inderjit Singh, J.

This criminal revision petition has been filed under Section 397 read with Section 401 Cr.P.C. challenging the impugned judgment dated 2.1.2015 passed by learned Sessions Judge, Ambala, whereby the appeal filed by the petitioner against the judgment of acquittal dated 27.3.2014 passed by the learned Judicial Magistrate Ist Class, Ambala, acquitting the accused of the charges framed against him, has been dismissed.

From the record, I find that challan was presented by Police of Police Station, Ambala City under Sections 323, 325 read with Section 34 IPC in FIR No.367 dated 27.11.2007 registered against Prabhu and Roop Chand.

The brief facts of the case as noted down by the learned Judicial Magistrate Ist Class, Ambala, in his judgment dated 27.3.2014, are as under:-

“The prosecution in the present case was launched on the statement of Sohan Lal S/o Sadhu Ram caste sunar R/o H.No.2, New Shivalik Colony, Ambala City. The prosecution case in brief is that on 19.11.2007, complainant who was employed at Government Veterinary Hospital near Jagadhri Road, Ambala City had gone to nearby Electricity Department at around 9.00 P.M. in the night. He had gone there to make a phone call to his son. Accused persons namely Roop Chand and Prabhu who were employed in the Electricity Department asked the complainant not to make the phone call. They gave him beatings. Accused Roop Chand gave slaps and fist blows. Accused Prabhu pushed the complainant in anger. As a result, complainant fell down and received injury on his left knee. In the meanwhile, son of the complainant Devinder Kumar reached the spot and saved the complainant. Thereafter, complainant went back to his duty to the veterinary hospital and stayed there for the entire night due to fear of accused persons. In the morning he was got admitted in Government Hospital by his wife and son. He thus prayed for taking action against the accused persons.”

The learned Judicial Magistrate Ist Class, Ambala, framed the charges under Sections 323, 325 read with Section 34 IPC. The learned Judicial Magistrate Ist Class, Ambala, after appreciating the evidence as well as the statements of DW-1 Joginder Pal Lineman and DW-2 Smt. Rita Rani

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acquitted the accused. Aggrieved from this judgment, an appeal was filed, which was also dismissed by the learned Sessions Judge, Ambala, vide judgment dated 2.1.2015. Aggrieved from these judgments, the 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 in the present case, first of all section 325 IPC is not proved as no X-ray film and report had been proved by the doctor. Secondly, I find that there is a delay of almost 8 days in lodging the FIR. Thirdly, the witness PW-6 did not support the prosecution version.

As regards the son of the complainant, namely, PW-3 Devinder Kumar, who had stated that he was the eye witness is concerned, the Court after appreciating the evidence found his presence doubtful on the spot. As per the complainant version, he had gone to the place of occurrence to give phone call to his son so that he may bring his dinner. The Court held that as to how the son came to the place of occurrence at his own. Secondly, the Court also doubted the presence of son of the complainant on the ground that if he was present on the spot, then as to why he has not taken the injured-complainant to the hospital despite the fact that the complainant had told his son that his knee had been broken. Furthermore, despite the fracture in the knee, as per the complainant, he did not go to the hospital and got himself medically examined next day. The statement of the doctor also shows only swelling on the knee and there is nothing that the X-ray was

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conducted of the knee nor there is any such X-ray report proved by the prosecution. Now they rely only on one statement of Sohan Lal-complainant on the record and the Court also found a reasonable doubt in the version of the prosecution because complaint was also made by SDO, UHBVN to In-charge, Veterinary Hospital. Copies of the same are Ex.DW.1/A and Ex.DW.1/C. That complaint was made against the complainant regarding entering the premises of the UHBVN Department in a drunken state and abusing and interfering with the machinery installed there.

Keeping in view the findings given by the learned trial Court and the learned Sessions Judge in appeal, I find that these findings cannot be held as perverse or against the evidence and law. Nothing has been pointed out as to which material evidence has been misread by the Courts below and as to which material evidence has not been considered by the Courts below.

Therefore, from the above, I find no ground in the criminal revision petition. As no illegality has been pointed out in the findings given by the Courts below, therefore, the judgments of both the Courts below are correct and as per law, which do not require any interference from this Court and the same are upheld.

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

March 10, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No