

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

CRR No.1559 of 2015 (O&M)

Date of decision : 02.05.2017

Naresh Kumar and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Mukesh Yadav, Advocate for the petitioners.

JITENDRA CHAUHAN, J. (Oral)

CRM-14462-2015

Heard.

There is inordinate delay of 51 days in filing the present petition.

No satisfactory explanation is forthcoming to condone the delay as such, no case for condonation of delay is made out.

Dismissed.

Main Case

The present petition has been filed for setting aside the judgment dated 01.12.2014, passed by learned Sessions Judge, Narnaul, whereby the appeal filed by respondent No.2 against the judgment dated 12.11.2013, passed by Judicial Magistrate 1st Class, Mohindergarh, has been allowed. The petitioners have been released on probation of good conduct

and have been further directed to pay compensate of Rs.30,000/- to respondent No.2.

The learned counsel for the petitioners states that despite the availability of the independent witnesses as admitted by the complainant, no independent witness has been joined by the prosecution; and no recovery of any weapon allegedly used in the crime, was effected from the petitioners. Thus, the impugned judgment is liable to be set aside.

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

In the instant case, while respondent No.2/complainant along with Dharmender and Karambir was sitting at liquor shop, an innova car came there and accused-petitioners with one Dharampal, armed with *danda* got down from it and attacked respondent No.2 and caused injuries to him. As per the version of respondent No.2, duly corroborated with the medical evidence i.e. MLR and x-ray of the injured, the injured had suffered seven injuries. Moreover, PW2-Dr. Karan Singh, has opined that there was fracture of both bones of right leg of respondent No.2. The Court of learned JMIC, Mohindergarh had passed the judgment in favour of the petitioners on the basis of testimony of eye-witness, DW1-Dharmender. However, his version is highly improbable as in his cross-examination he fairly admits that his signatures were obtained on blank papers and he did not know what was written over that paper. Since, earlier the owner of the said liquor shop, Sanjay had caused injuries to petitioner No.1, to which an FIR was also

registered against said Sanjay, the possibility of involvement in the attack of the petitioners to take revenge cannot be ruled out. Thus, this Court feels that the finding recorded by the Sessions Judge cannot be said to be perverse or contrary to the material on record. The sentence passed by learned Sessions Judge is quite just and appropriate. In fact the impugned judgment was passed after appreciating the entire facts and circumstances of the present case and no other view is possible.

Accordingly, the present petition is hereby dismissed on merits as well as being time barred.

02.05.2017

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes / No
Yes / No