

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

CRR-1570 of 2015 (O&M)
Date of decision : 07.02.2017

Rajpal

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Gaurav Gupta, Advocate for the petitioner.

JITENDRA CHAUHAN, J.

The instant revision petition has been filed by the complainant-petitioner, impugning judgment dated 27.05.2014 passed by learned Judicial Magistrate 1st Class, Hathin (for short, 'the trial Court'), and judgment dated 18.02.2015, passed by learned Sessions Judge, Palwal (for short, 'the Appellate Court') whereby, the accused-respondent Nos. 2 to 4 have been acquitted in FIR No.12 of 2009, registered under Sections 323 and 325 read with Section 34 of the Indian Penal Code at Police Station Hathin.

The short facts of the case leading to the registration of present FIR is that the petitioner/complainant moved an application on 05.01.2009, stating therein that when he was going towards his fields, accused/respondent Nos. 2 to 4 intercepted him, assaulted him and caused hurt to him.

The accused were charged under Sections 323 and 325 read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Mahavir, eye-witness as PW1; Rajpal, complainant as PW2; Dr. J.B. Parshad, as PW3; Dr. V.P Gupta, as PW4; SI Shirchand as PW5; and Constable Charan Singh as PW6.

When examined under Section 313 Cr.P.C., the accused pleaded innocence and false implication. However, he did not led any evidence in his defence.

After hearing learned counsel for the parties and perusing the evidence brought on record, learned trial Court acquitted the accused of the charges framed against them.

Feeling aggrieved, the complainant/petitioner went in appeal before learned Appellate Court, which was also dismissed vide impugned judgment dated 18.02.2015. The State did not opt to file any appeal against judgment of acquittal.

Hence the present revision petition.

It is contended that learned Courts below erred in not appreciating the fact that the petitioner has produced relevant evidence in support of his case which has been corroborated by way of medical evidence by examining PW-3, Dr. J.B. Parshad who proved the MLR of the petitioner. The learned Courts below have failed to consider the testimony of PW-4, Dr. V.P. Gupta, who examined the petitioner and found that there was a fracture of right fibula and tibia. The learned trial Court has wrongly given weightage to the admission made by the petitioner that the fracture in

his leg was suffered by him in the accident whereas the accident had taken place in the year 2001.

Heard and perused the record.

In the instant case, the petitioner alleged that on 05.01.2009, at around 1.30 p.m., while he was going towards his fields, accused/respondent Nos. 2 to 4 intercepted him and caused hurt to him. Mahavir, PW-1 who was passing from the spot on his tractor came there and after seeing him, the accused persons ran away from the spot, whereas as per the version of PW-1, Mahavir, he submitted that a phone call was received from the petitioner that the accused persons have caused hurt to him and he was called to the spot. He has admitted that he did not see any of the accused person assaulting the petitioner. Further, no justification has come on record for delay of two days in reporting the matter to the police. There is no other independent witness or eye witness to substantiate the allegations levelled by the petitioner.

In ***State of Rajasthan vs Shera Ram @ Vishnu Dutta, (2012) 1 SCC 602***, Hon'ble the Supreme Court has held as under:-

“13. When an accused is acquitted of a criminal charge, a right vests in him to be a free citizen and this Court is very cautious in taking away that right. The presumption of innocence of the accused is further strengthened by the fact of acquittal of the accused under our criminal jurisprudence. The courts have held that if two views are possible on the evidence adduced in the case, then the one favourable to the accused, may be adopted by the court. However, this principle must be applied keeping in view the facts and circumstances of a

case and the thumb rule is that whether the prosecution has proved its case beyond reasonable doubt. If the prosecution has succeeded in discharging its onus, and the error in appreciation of evidence is apparent on the face of the record then the court can interfere in the judgment of acquittal to ensure that the ends of justice are met. This is the linchpin around which the administration of criminal justice revolves.

14. It is a settled principle of criminal jurisprudence that the burden of proof lies on the prosecution and it has to prove a charge beyond reasonable doubt. The presumption of innocence and the right to fair trial are twin safeguards available to the accused under our criminal justice system but once the prosecution has proved its case and the evidence led by the prosecution, in conjunction with the chain of events as are stated to have occurred, if, points irresistibly to the conclusion that the accused is guilty then the court can interfere even with the judgment of acquittal. The judgment of acquittal might be based upon misappreciation of evidence or apparent violation of settled canons of criminal jurisprudence.”

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 the present case, the petitioner/complainant has failed to prove his case beyond a reasonable shadow of doubt.

Accordingly, finding no merit in the instant revision petition, the same is hereby dismissed.

07.02.2017
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No