

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

**CRR No.163 of 2014 (O&M)
Date of Decision: August 17, 2017**

Chander Pal

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ashish Yadav, Advocate
for the petitioner.

Mr.Parveen Aggarwal, Deputy Advocate General, Haryana
for the respondent-State.

Mr.B.D.Sharma, Advocate for
Mr.Anil Kumar Sharma, Advocate
for respondent No.2.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Chander Pal against State of Haryana and other respondents, challenging the impugned judgment dated 08.08.2013 passed by learned Sessions Judge, Rewari, vide which the appeal filed by the accused-respondents against the judgment of conviction dated 02.05.2012 and order of sentence dated 03.05.2012 passed by learned JMIC, Rewari, was allowed and they were acquitted of the charges framed against them.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the petition.

Lower Court record was requisitioned.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

From the record, I find that challan was presented against accused Om Pal Singh, Rajesh Singh and Anand Pal Singh in case FIR No.61 dated 04.04.2009 under Sections 323, 452 and 506 IPC. The brief facts of the case as noted down in the judgment passed by learned JMIC, Rewari, are as under:-

“On 04.04.2009 complainant Chander Pal gave an application. As per the application there is a dispute with regard to partition of land between him and his brother Om Pal. He had filed a civil suit against Om Pal at District Court, Rewari. On 04.04.2009 he and his brother Om Pal were present at their fields. An altercation took place. His brother Om Pal stated that after reaching home he will give him his complete share. He came back home. At 8.00 P.M. Om Pal alongwith his son Rajesh and Anand Pal and two other unknown person came at his home. Om Pal and his companions were armed with axe, sword, iron rod and bamboo sticks. Om Pal gave injury with axe on his head. His son Anand Pal gave injury with a sword. Rajesh gave injuries to his son Shiv Raj with sticks. On raising cries for help, the neighbours gathered and saved them. In particular, Sarpanch Sompal and Surender Singh son of Gajraj saved them. The attackers threatened to kill them while leaving.”

Learned JMIC, Rewari, on the basis of the evidence, convicted the accused-respondents under Sections 323, 452 and 506 read with Section 34 IPC and sentenced them to undergo rigorous imprisonment for a maximum period of three years under Section 452 IPC along with fine, vide judgment of conviction dated 02.05.2012 and order of sentence dated 03.05.2012. An appeal was filed by the accused-respondents before Court of Session and learned Sessions Judge, Rewari, vide impugned judgment dated 08.08.2013, accepted the appeal and acquitted the accused-

respondents of the charges framed against them.

Aggrieved from the above-said judgment dated 08.08.2013, present revision has been filed by the petitioner-complainant.

From the record, especially the judgment dated 08.08.2013, I find that the findings given by learned Sessions Judge, Rewari, are correct, as per evidence and law. In no way, the findings can be held as perverse or against the evidence or law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered by the learned lower Appellate Court. Nothing has been pointed out as to how the findings are illegal.

From the record, I find that as per the complainant, Om Pal Singh gave an axe blow on his head, Anand Pal gave a sword blow on his head and Rajesh gave lathi blows to Shiv Raj, son of the complainant. The perusal of the record shows that the injuries found on the person of complainant were “two lacerated wounds on head, one on frontal region and another on parietal region”. No external injury was found on the person of Shiv Raj Singh and he was complaining of pain in left shoulder, which means that the oral evidence is not supported and corroborated by the medical evidence. The complainant is alleging injuries with sharp edged weapon i.e. axe and swords, but there are only lacerated wounds on the head of the complainant and injuries with *lathi* are stated to have been caused on Shiv Raj Singh but there is no external injury mark on his person.

Learned Sessions Judge, Rewari, further discussed the material contradictions and improvements in the statement of witness. The original version was that Om Pal Singh gave axe blow on the head of the complainant but the complainant has deposed that Om Pal gave a sword

blow on his forehead. As per original version, Anand Pal gave a sword blow on the head of the complainant but in his deposition, the complainant did not attribute any such injury to Anand Pal. He introduced a new version that Anand Pal gave him blows with iron rod and then with reverse side of *farsi*. Further, originally Rajesh was alleged to have given *lathi* blows to Shiv Raj but as per the deposition of the complainant, he gave axe blow on the shoulder of Shiv Raj.

Keeping in view the material contradictions and improvements in the version of the complainant and the fact that oral version is not supported by medical evidence, a reasonable doubt exists in the prosecution version and learned Sessions Judge, Rewari, has rightly acquitted the accused. Learned Sessions Judge, Rewari, has given the findings after re-appreciating the evidence in right perspective. The impugned judgment dated 08.08.2013 passed by learned Sessions Judge, Rewari, is correct, as per law and evidence and does not require any interference from this Court.

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

August 17, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No