

In the High Court of Punjab and Haryana at Chandigarh

CRR No.2105 of 2014

Date of decision: November 6, 2017

Amarjeet Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Inderjit Sharma, Advocate for the petitioner.

ARVIND SINGH SANGWAN, J.

Petitioner has filed the present petition under Section 401 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) praying for setting aside the judgement dated 2.6.2014, vide which the appellate Court acquitted respondents No. 2 and 3-accused and reversed the judgment dated 18.11.2011, whereby the trial Court had convicted the respondents No. 2 and 3-accused under Sections 447 and 427 of the Indian Penal Code, 1860 ('IPC' for short) and, while releasing them on probation, sentenced them to pay a fine of ₹500/- each under Section 447 IPC and ₹4000/- each under Section 427 IPC.

Brief facts of the case are that the complainant-Amarjeet Kaur filed an application with the Police that she was having land in Village Kot Yog Raj, Police Station Kahnuwan, District Gurdaspur and accused persons

were trying to take possession of her land. It was further submitted that the accused had forged a Will in 1985 and a complaint in this regard was already pending with the Police against the accused persons. The complainant purchased the land in dispute on 22.5.2006 and, thereafter, the mutation of the land had also been sanctioned and the revenue record depicting her possession was also changed. It was further submitted that on 23.12.2006, accused persons forcibly destroyed the standing crop of the complainant by extending threats and had further threatened the complainant to kill, in case, she informed any one, and as such the accused persons had caused the damage of a sum of ₹50,000/- to them.

After completion of investigation, the report under Section 173 Cr.P.C. was submitted and the trial Court framed charges under Sections 427, 447 IPC to which the accused did not plead guilty and claimed trial.

The prosecution, in its evidence recorded seven prosecution witnesses, and also tendered certified copies of the orders passed by the Revenue Court, the revenue record and the sale deed.

Complainant-Amarjeet Kaur , PW2 proved her version given in the complaint. Similarly PW1 Balwinder Kaur also stated on the same lines that the accused persons by spraying some poisonous substance on the standing crop of the complainant destroyed the same. Similar statement was made by PW3 Jarnail Singh. PW5 Gurnam Singh Patwari deposed about proving the Khasra Girdawaris and jamabandi. PW6 Gurmit Singh, Deputy Superintendent of Police stated that he had conducted a detailed inquiry Exhibit PW6/A. PW7 Manbir Singh, deed writer proved the sale deed dated 22.5.2006 in favour of the complainant.

In defence, Ranjit Singh appeared as DW1 and stated that the complainant party had never cultivated the land in dispute. DW2 Mohinder Singh proved a mortgage deed in favour of accused Jarnail Singh and Nirvair Singh.

The trial Court convicted the accused under Sections 447 and 427 IPC vide judgment dated 18.11.2011 and considering the age of respondent- accused -Jagdish Chander as 78 years and that of Joginder Singh as 65 years and the young age of Ajaypal Singh ordered their release on probation and sentenced them to pay fine of ₹500/- each under Section 447 IPC and ₹4000/- under Section 427 IPC,

The accused persons preferred an appeal before the lower appellate Court and the lower appellate Court, while acquitting the respondents-accused, noticed that one accused.-Jagdish Chander had already died.

The present petition has been pending since 2014 and a perusal of the last orders show that till date, no argument was addressed on behalf of the petitioner and even notice in the revision petition is not issued. It is submitted on behalf of the petitioner that it is proved on record from the statements of prosecution witnesses, coupled with the revenue record and order passed by the revenue Court that the complainant purchased the land in dispute on 22.5.2006 and had sown wheat and Mustard Crop. Learned counsel has further submitted that it has also been proved from the statements of the prosecution witnesses that on 23.12.2006, when the complainant along with the prosecution witness were present in their field, the accused persons sprayed some poisonous substance and destroyed the

standing wheat and Mustard crop and caused the damage of ₹50,000/- and, thus, the conviction of the respondents-accused by the trial Court is in accordance with the law and prayed for setting aside the judgment passed by the appellate Court and for restoration of the conviction and judgment passed by the trial Court.

After hearing the learned counsel for the petitioner, I find no merit in the present petition.

Firstly, the trial Court has awarded fine only in lieu of sentence under Sections 447/427 IPC. The complaint, Exhibit PA and Exhibit PB, were received in the Office of Senior Superintendent of Police and Deputy Commissioner on 3.1.2007 which shows that there is a delay of about 12 days in making the complaint. Mere fact that on the complaint, the date has been shown as 28.12.2006, does not explain the delay as this was submitted before the authority only 3.1.2007. The identity of land has also not been proved by the complainant that the land where the alleged occurrence took place is the same land, which the complainant has purchased as no khasra number or description of land is given in the complaint nor it finds mention in the report of the Deputy Superintendent of Police. Even the complainant has failed to prove on record any report from the agricultural department or any other technical agency i.e. with reference to the residue of the damaged crop to prove the damage was on account of spray of poisonous substance. Needless to say that neither the police took in possession any residue of crop nor any poisonous substance. Even no instrument which was allegedly used by the accused person in damaging the crop was recovered by Police or proved on record.

Therefore, the lower appellate Court has rightly held that neither the place of occurrence is identifiable nor it is proved that the complainant was in possession of the property regarding which the allegation of destroying the crop was made. There is no report from the technical agency like Chemical examination/Agriculture Department or FSL to prove that the crop was damaged and, lastly, the delay of 12 days in reporting the incident to Police is also not properly explained. It is also relevant to notice that the respondents-accused have also been facing the protracted trial since 2007 till the decision of the appeal before the appellate Court i.e. 2014 for a period of seven years.

In view of the above and on perusal of record, I find no merit in this petition and the same is hereby dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

November 6, 2017

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No

