

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

**CRR No.2481 of 2014 (O&M)
Date of Decision: August 02, 2017**

Sanjay Sharma

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.V.K.Agnihotri, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sanjay Sharma against respondents State of Haryana and Jasmer Singh, challenging the impugned judgment dated 02.07.2013 passed by learned Sub Divisional Judicial Magistrate, Naraingarh, vide which the accused-respondent was acquitted and also challenging judgment dated 04.06.2014 passed by learned Sessions Judge, Ambala, vide which the appeal filed by the petitioner-complainant against the judgment of acquittal was dismissed.

I have heard learned counsel for the petitioner and have gone through the record.

The perusal of the record shows that challan was presented against accused Jasmer Singh in case FIR No.111 dated 13.06.2007 under Sections 379 IPC. The brief facts of the case as noted down in the judgment

passed by learned SDJM, Naraingarh, are as under:-

“2. Tersely put, the factual background upon which the story of the prosecution rests is that on 13.6.2007 Sanjay Kumar, Sarpanch of village Meerpur moved an application before DSP Naraingarh alleging therein that Jasmer, Sher Singh and Gurcharan have stolen away one Shisham tree which was standing in the land situated in khasra no.59 belonging to Panchayat. It was alleged that the tree was cut on 8.6.2007 and the incident of cutting of the tree was witnesses by Darshan Singh, Surender Singh and other inhabitants of the village who informed the Sarpanch and thereafter information was given to B.D.O. and S.H.O. Later police took one tractor trolley without number Ford tractor 3610 of blue colour in its possession but the police did not take any action. It was also stated that the accused gave in writing to the B.D.O. Naraingarh that they had cut the tree by mistake believing the tree standing on their own land. It is stated that infact accused deliberately and dishonestly removed the tree and actio was sought in the matter. D.S.P. marked the application to SHO P.S. Naraingarh. FIR was registered. Investigation was carried out during which site plan was prepared. Tractor and trolley were taken into possession of police on 14.6.2007 vide separate recovery memo. Statements of witnesses were recorded and accused was made to join investigation as he had been released on anticipatory bail and after the completion of the other necessary formalities of investigation, the challn against accused Jasmer Singh was prepared and presented before the Court. Accused Gurcharan and Sher Singh were not challaned and their names were mentioned in the Column No.2 of the report.”

Learned SDJM, Naraingarh, on the basis of the evidence, acquitted the accused vide judgment dated 02.07.2013. An appeal was filed by the petitioner before learned Court of Session and learned Sessions Judge, Ambala, vide impugned judgment dated 04.06.2014, dismissed the appeal.

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

Learned Magistrate held that tree was cut on 08.06.2007. As

itself. Recovery memo shows that wood and tractor were taken into possession on 14.06.2007. The Investigating Officer did not obtain any revenue record in the shape of jamabandi or khasra girdawari to establish about the ownership of the land comprising of khasra No.59 from where the alleged tree was cut.

The perusal of the findings shows that it is necessary for the prosecution to prove its case beyond reasonable doubt and the prosecution has to collect the revenue record to show ownership of khasra No.59, whether it belongs to accused or to complainant party. Similarly, no demarcation report has been obtained to know that from which area the tree in question was cut. The wood taken in possession/sapurdari was not produced before the Court.

PW-6 deposed during cross-examination that they do not know who had planted tree in question and that no revenue record regarding the land in which tree was standing was obtained. The complainant also admitted in cross-examination that no demarcation was got conducted. It is also admitted that dispute regarding *abadi* land is pending between Kulwant Singh, Chhattarpal, Darshan Singh and Jasmer Singh. It is further admitted by the complainant that now there are some *gohara* of some persons which are adjacent to the land of panchayat and the *gohara* of Jasmer Singh is also adjacent to the land of panchayat. He also stated that he does not know as who had planted the tree in question.

From the record, I find that the accused has been rightly acquitted. The impugned judgments passed by the Courts below, are correct, as per law and evidence and do not require any interference from

this Court.

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

August 02, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No