

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

CRR-1411-2016

Date of decision : 19.01.2017

Ajit Singh

...Petitioner

Versus

Tehal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Kamal Narula Advocate,
for the petitioner.

JITENDRA CHAUHAN, J.

The instant revision petition has been filed by the complainant/petitioner, impugning judgment dated 09.12.2015, passed by learned Additional Sessions Judge, Ferozepur (for short, 'the appellate Court'), whereby, the appeal preferred by the petitioner, against the judgment of acquittal dated 08.12.2014, passed by learned Addl. Chief Judicial Magistrate, Ferozepur, has been allowed and the accused-respondents have been acquitted in Criminal Appeal No.17 of 2015, titled as 'Ajit Singh Vs. Tehal Singh and others'.

It is the case of the complainant that in the month of June 2005, the accused/private respondents armed with weapons along with their other associates, took forcible possession of land belonging to the complainant measuring 16 kanals 13 marlas, damaged the crop and wrongly carved out a passage and a water course, despite the orders of *status quo* qua possession thereon as awarded by this Court. The complainant had moved a written

complaint in April 2007, which was inquired into and FIR No.276 dated 14.11.2007, was registered under Sections 427, 447, 511 and 148 read with Section 149 of the Indian Penal Code, at P.S. Sadar Ferozepur. After completion of investigation, challan was presented.

Copies of challan and other documents were supplied to the accused free of costs as envisaged under Section 207 Cr.P.C.

Accused/respondents were charge-sheeted under Sections 427, 447 and 148 IPC to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined complainant Ajit Singh as PW1, Aroor Singh, Sub-Inspector (retired) as PW2 and Harjeet Singh as PW3 and thereafter, closed its evidence. Complainant has also tendered into evidence certified copy of RSA No.1879 of 2005 passed by this Court as Ex. PX, certified copy of order dated 23.05.2005 passed the said RSA as Ex. PY and certified copy of judgment dated 01.11.2011 as Ex. PZ

The statements of accused/respondents were recorded under Section 313 Cr.P.C. in which all the incriminating evidence appearing in the prosecution evidence was put to the accused/respondents. The accused denied all the allegations and pleaded innocence and false implication.

In defence, learned counsel for the accused/private respondents tendered into evidence documents, i.e., a certified copy of judgment dated 26.05.2003 passed by the court of the then Civil Judge (Junior Division) Ferozepur as Ex. D1, its decree sheet as Ex. D2, certified copy of judgment dated 17.03.2005 passed by the court of Additional District Judge as Ex.D3, its decree sheet as Ex.D4, certified copy of judgment dated 15.06.2007

passed by the court of Additional Civil Judge (Senior Division), Ferozepur as Ex.D5 and its decree as Ex.D6, certified copy of judgment dated 29.11.1996 passed by the then Additional District Judge, Ferozepur as Ex.D7, certified copy of order dated 25.11.2011 passed by the court of Additional Chief Judicial Magistrate, Ferozepur as Ex.D8 and photocopy of judgment dated 25.11.2011 as Mark X. Thereafter, the accused/respondents closed their defence evidence.

After hearing learned counsel for the parties, learned trial Court come to the conclusion that the prosecution had failed to prove its case beyond shadow of reasonable doubt and the accused/respondents were acquitted, vide judgment 08.12.2014.

Feeling dissatisfied, the complainant filed an appeal before the learned appellate Court, which was also dismissed, vide judgment dated 09.12.2015.

Still feeling aggrieved, the instant revision petition has been filed by the complainant/petitioner, assailing both the aforesaid judgments dated 08.12.2014 and 09.12.2015.

Learned counsel contends that learned Courts below have ignored the material documents on record, i.e., Ex.PX, Ex.PY and Ex.PZ, whereby this Hon'ble Court ordered status quo with regard to land in dispute. Despite the said orders, accused/private respondents with the help of police officials took forcible possession of the land in dispute and carved out a passage along with a water course from that land. Earlier also, the petitioner/complainant had lodged FIR No.195 dated 07.07.2003 under Sections 427, 440 and 447 IPC at P.S. Sadar Ferozepur, against

accused/respondents Gurbhej Singh and Gurtej Singh etc., in which they were ultimately convicted for committing similar offences on the same land.

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

In the instant case, it is to be seen that in the complaint Ex.P-1, moved by the complainant before the Police in the month of April, 2007, does not mention the date of said occurrence. However, during inquiry, it surfaced that the alleged incident took place in the month of June, 2005. The complainant has also deposed to the effect that the occurrence had taken place in the month of June, 2005. Therefore, there is an inordinate delay of more than two years in moving the process which remained unexplained throughout. Even in the instant petition, no reason has been cited for such a huge delay. In order to render explanation to the delay, the complainant in his cross-examination deposed that the occurrence took place on 14.11.2007. However, this statement warrants rejection because the complaint, Ex.P1, the occurrence is dated 25.04.2007.

The prosecution examined Harjit Singh PW-3 to prove its case. However, this witness did not support the case of the prosecution and was accordingly, declared hostile. He was also subjected to a lengthy cross-examination but nothing could be extracted in favour of the complainant.

Another vital aspect of the matter deserves mention at this stage is the fact that the parties have a previous history of civil as well as criminal litigation between them, therefore, the possibility of false implication of the accused-respondents at the behest of complainant-petitioner cannot be ruled out.

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.

From the perusal of the case file, this Court is of the considered opinion that the quality of evidence led by the prosecution is not sufficient to fasten the accused-respondents with criminal liability. This Court feels that the impugned judgments of learned Appellate Court as well as learned Trial Court, have been passed after proper appreciation of evidence on record and application of judicial mind.

Consequently, the present revision petition fails and is hereby dismissed.

19.01.2017
adhikari

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :Yes No

Whether Reportable : Yes No