

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No.277 of 2015(O&M)

Date of Decision: March 03, 2017

Raghuwinder Singh son of Gurdial SinghPetitioner

Versus

Amrik Singh and othersRespondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Sunil Agnihotri, Advocate
for the petitioner.

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TEJINDER SINGH DHINDSA, J.

The instant revision petition is directed against the judgment dated 8.9.2014 passed by the learned Sessions Judge, Hoshiarpur and whereby the judgment of acquittal of the respondents dated 10.10.2008 passed by the Judicial Magistrate Ist Class, Dasuya has been affirmed.

2. Briefly noticed, complainant-Raghuwinder Singh (present petitioner) filed a complaint against accused Amrik Singh, Daler Singh (since deceased), Balbir Singh, Baljit Singh, Avtar Singh, Kulwinder Singh and Gurcharan Kaur under Sections 323, 427, 452, 506 of the Indian Penal Code stating that the parties are related to each other and are residing at village Mangat. Complainant asserted that the land holding of the parties stood partitioned by way of a family partition and as such, all the co-sharers were in separate possession as per their share.

The land was being irrigated by a tubewell which had been jointly installed in the land. It was alleged that the accused-party have formed a group and are against the complainant. In the complaint, it was asserted that on 12.10.1996, accused Baljit Singh and Balbir Singh had stolen five gunny bags of wheat and regarding which complainant had given application to the Gram Panchayat, but no action was taken. On 7.6.1998, accused Balbir Singh, Baljit Singh and Avtar Singh had with a dishonest intention cut away two kikkar trees and retained the same in the field of one Ujagar Singh. Even with regard to the felling of the kikkar trees, complainant is stated to have given an application to the Forest Department. Insofar as the present complaint is concerned, it was alleged that on 20.12.1999 all the accused with a common intention had let out water in the field of the complainant and thereby wheat crop sown in one killa had been destroyed. The complainant having questioned the accused regarding such event, all the accused had assaulted him and thereafter accused had even entered in the courtyard of the house of the complainant and had given beatings with fist blows. Complainant further asserted that at that point of time Jagdish Lal, Namberdar and Jagtar Singh son of Jagir Singh came at the spot and who, not only witnessed the occurrence, but even saved the complainant. Complaint regarding the occurrence was made at Police Station Dasuya, but no action was taken and hence the complaint.

3. On the basis of preliminary evidence, all the accused were ordered to be summoned to face trial under Sections 452,

323, 427, 506 read with Section 34 of the Indian Penal Code. Accused Daler Singh died during the proceedings of the case and as such, the complaint against him abated. On the basis of pre-charge evidence led by the complainant and finding a prima facie case, charge under Sections 452, 506 of the Indian Penal Code was framed. The accused-party did not plead guilty and claimed trial. Raghuwinder Singh, complainant appeared in the witness box as PW1. Daughter of the complainant Ranjit Kaur appeared in the witness box as PW2. Statement of the accused was recorded under Section 313 of the Code of Criminal Procedure wherein the incriminating evidence was put to them. Accused pleaded false implication.

4. Upon hearing counsel on either side and having appreciated evidence adduced on record, the trial Court acquitted the accused-party. Appeal having been preferred by the complainant also stands dismissed. Resultantly, the instant revision.

5. Mr.Agnihotri, learned counsel appearing for the complainant-petitioner has argued that the statements of PW1 Raghuwinder Singh and PW2 Ranjit Kaur were enough to establish that the respondents had criminally trespassed in the courtyard of the house of the complainant and of having administered threats of killing him and the trial Court has committed an error in having granted benefit of doubt to the accused-party/respondents.

6. Learned counsel for the petitioner has been heard at length and the pleadings on record have been perused.

7. The trial Court has recorded a finding based upon the

deposition of PW1 Raghuwinder Singh, complainant that his residential house is not in his exclusive possession and rather the alleged place of occurrence was in joint ownership of the parties. It has been noticed by the trial Court that PW1, in his cross-examination, had clearly stated that his father had not executed any will regarding the property/house in favour of anyone and also admitted that the house is in joint ownership with his uncle. Complainant further stated that the property had not been partitioned and is in joint ownership. Learned counsel appearing for the petitioner has not advanced any submissions to the contrary and has not even contended such observations made by the trial Court to be perverse. Under such circumstances, the trial Court has rightfully taken a view that the accused cannot be held guilty of having committed house trespass on account of entering into the house of the complainant upon making preparation to put him in fear of hurt. Offence under Section 452 of the Indian Penal Code has not been made out.

8. The Courts below have also taken a concurrent view upon examination of deposition of PW1 complainant as also of Ranjit Kaur, PW2 as regards the allegations of criminal intimidation and threatening with injury on his person with intent to cause hurt being utterly vague. It has been observed by the trial Court that in the statement of PW1 Raghuwinder Singh, complainant, he nowhere stated in his examination-in-Chief as to on what date and time the accused allegedly committed the offence. Even PW2 Ranjit Kaur in her examination-in-Chief stated that she does not remember the date of occurrence.

Furthermore, independent witnesses, PW3 and PW4, have not even corroborated the assertions raised by the complainant as regards criminal intimidation. The deposition of PW1 and PW2, at best, make out a case of empty threats having been advanced. Such threats would not make out a case under Section 506 of the Indian Penal Code.

9. Learned counsel appearing for the petitioner has not been able to point out any infirmity or perversity in the judgment of acquittal recorded by the trial Court and so affirmed by the Appellate Court.

10. No basis so as to warrant interference in the judgment of acquittal while exercising the revisional jurisdiction of this Court is made out.

11. Petition dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

March 03, 2017

SRM

Note:	<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
	<i>Whether Reportable?</i>	<i>Yes/No</i>