

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

CRR No.1669 of 2016 (O&M)
Date of Decision: October 11, 2017

Surjit Singh

...Petitioner

VERSUS

Pavittar Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Kulwant Singh Dhanoa, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Surjit Singh against Pavittar Singh and other respondents, challenging the impugned judgment dated 24.02.2016 passed by learned Addl. Sessions Judge, Jalandhar, vide which the appeal filed by the accused-respondents against the judgment of conviction and order of sentence dated 03.12.2014 passed by learned Sub Divisional Judicial Magistrate, Phillaur, was allowed and they were acquitted of the charges framed against them.

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

From the record, I find that challan was presented against accused Pavittar Singh, Palwinder Singh and Davinder Singh in case FIR No.63 dated 25.04.2010 under Section 379 IPC. The brief facts of the case

as noted down in the judgment passed by learned SDJM, Phillaur, are as

under:-

“2. Briefly stated, the present case has been registered on the statement of complainant Surjit Singh son of Teja Singh resident of village Mau Sahib, Tehsil Phillaur recorded by ASI Malkiat Singh, in which he stated that he is resident of above said address and is an agriculturist by profession. His agriculture land is situated in village Mau Sahib, where he sown his wheat crop. He had harvested his wheat crop with combine and his remaining wheat crop was standing in 8 kanals of land. On 24.04.2010 at about 6.00 P.M accused Pavittar Singh, Palwinder Singh and Davinder Singh have stolen his wheat crop by cutting the same and they had taken the said wheat crop in the tractor trolley. He was found them, but they did not meet him. Surjit Singh son of Sardool Singh had seen them cutting his wheat crop. Action be taken. 3. On the basis of said statement of complainant Surjit Singh present FIR was registered against the accused persons. investigation started. During the investigation above named accused were arrested. Statements of witnesses were recorded. Rough site plan of the place of theft was prepared. After completion of the investigation challan against the accused was presented before the Court for trial.”

On presentation of challan against the accused, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused were charge-sheeted under Section 379 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined witnesses and after closure of the prosecution evidence, the statements of accused under Section 313 Cr.P.C. were recorded.

Learned SDJM, Phillaur, on the basis of the evidence, convicted the accused-respondents under Section 379 IPC and sentenced them to undergo rigorous imprisonment for a period of six months and to pay fine of ₹1000/- and in default of payment of fine, to undergo imprisonment for a period of 10 days each. An appeal was filed by the accused-respondents before Court of Session and learned Addl. Sessions

Judge, Jalandhar, vide impugned judgment dated 24.02.2016, accepted the appeal and acquitted the accused-respondents of the charges framed against them. The appeal filed by the petitioner-complainant for enhancement of sentence was dismissed.

Aggrieved from the above-said judgment dated 24.02.2016, present revision has been filed by the petitioner-complainant.

From the record, especially the judgment dated 24.02.2016, I find that the findings given by learned Addl. Sessions Judge, Jalandhar, 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.

The perusal of the record shows that in the FIR, no specific khasra number has been mentioned over which the petitioner-complainant is in exclusive possession. There is no evidence on the record as to when the complainant came into possession over the land. There is also no evidence whether the complainant sown the crop which has been allegedly harvested by the accused. As per revenue record, which is produced by PW-5 Raj Kumar, Halka Patwari, accused are shown to be in possession. PW-5 further deposed that these khasra numbers belong to the Provincial Government Rehabilitation Department and in the said land, Surjit Singh is in possession of 4 Kanals of land. Other 4 Kanals of land is shown to be in possession of Pavittar Singh. In cross-examination he categorically admitted that in the Khasra Girdawari, Pavittar Singh is shown to be in possession of

the property in dispute. The civil litigation is already pending between the

parties.

The Court also discussed the cross-examination of PW-3 Surjit Singh, who admitted that he does not know if there is any civil dispute pending between the complainant and accused. He also stated that he does not know if land is owned by Provincial Government. He further admitted that Surjit Singh (complainant) was not present at the spot. He stated that he made the statement to the police on the next day but could not tell the Khasra number of the disputed field from where the land was harvested.

PW-1 Surjit Singh complainant, in cross-examination stated that he had not witnessed the occurrence when accused harvested the crops. He admitted that the land from which crop was harvested, was having khasra number. PW-2 Sukhdev Ram appeared and deposed that he had purchased the reduce of crops from Surjit Singh S/o Teja Singh in the year 2010 for the purpose of feeding the milch animals and deposed that he had seen the accused while harvesting the crops. In cross-examination he admitted that the property in question belongs to the Punjab Government. He also admitted that there was civil dispute pending with regard to the land in question between the complainant and accused.

Learned Addl. Sessions Judge, Jalandhar, after discussing all these facts, held that when the possession over the property in dispute, as per revenue record, is in the name of Pavittar Singh and there is no cogent evidence on record to show that present complainant is in exclusive possession or he has sown the crop, therefore, benefit of doubt is to be given to the accused and acquitted the accused.

In view of the above discussion, I find that learned lower

the evidence as per law. No illegality has been committed while acquitting the accused-respondents. The impugned judgment dated 24.02.2016 passed by learned Addl. Sessions Judge, Jalandhar, is correct, as per law and evidence and does not require any interference from this Court.

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

October 11, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No