

219 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3217-2015(O&M)

Date of decision:19.09.2017

Sukhdev Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vinod K. Kataria, Advocate
for the petitioner.

Mr.K.S.Sidhu, DAG, Punjab

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 15.04.2014 passed by the trial Court, vide which the respondents No.2 to 4-accused were acquitted in case FIR No.114, dated 20.12.2008, registered under Sections 325 and 323 read with Section 34 IPC, at Police Station Nihal Singh Wala as well as the judgment dated 18.05.2015 passed by the Lower Appellate Court, vide which the appeal filed by the petitioner/complainant was dismissed.

Brief facts of the case are that the petitioner/complainant got registered the aforesaid FIR with the allegation that on 06.12.2008, he was going towards his fields on his tractor-trolley, when the respondents No.2 to 5/accused caused injuries to him on account of not providing passage. The petitioner/complainant further stated that one Major Singh, who had accompanied with him, raised voice, then all the accused ran away on their tractor trolley from the spot. Later on, the petitioner was admitted in Civil hospital, Nihal Singh Wala and on the statement of the petitioner/complainant, the FIR was registered under Section 325 and 323

read with Section 34 IPC.

After completion of the investigation, the police report under Section 173 Cr.P.C. was submitted before the trial Court and the charges were framed against the accused under Sections 323, 325 read with Section 34 IPC.

In order to prove its case, the prosecution has examined Dr. Surinderpal, Medical Officer as PW-1, who has proved the MLR of the petitioner as Ex.P1 and pictorial diagram Ex.P-2; PW-2-ASI Jaswant Singh, Investigating Officer has proved on record the ruqa Ex.P-3 sent by doctor to police Station Nihal Singh Wala, rough sketch of gandasas Ex.P-9 and rough site plan showing place of occurrence Ex.P-11; PW-3 Dr. Sanjay Dogra, Radiologist, proved on record X-Ray report as Ex.P-10 and P-11; PW-4 Sukhdev Singh complainant/petitioner appeared as witness; and PW-5, ASI Raj Dheem appeared and has proved the memo Ex.P-3 and Ex.P-4 relating to personal search of the accused persons; and Ex.P-6 to Ex.P-8, the recovery memo of gandasas, iron pipe and stick respectively and, thereafter, the evidence of the prosecution was closed.

After conclusion of the prosecution evidence, the statement of the respondents-accused recorded under Section 313 Cr.P.C. in which they denied allegation and pleaded false implication. In defence, they examined Major Singh as DW-1 and closed the defence evidence. The trial Court, on the appreciation of statement of Major Singh, alleged eye witness of the occurrence, held that the prosecution case is highly doubtful. The trial Court further recorded a finding that as per deposition of PW-1-Surinderpal, no incised wound injury was found which was caused by gandasas. In view of the fact that Major Singh, who was one of the eye

witness of the alleged occurrence has not supported the prosecution version, it was held that there is no convincing evidence on record to prove the guilt of the respondents Nos.2 to 4 - accused. The petitioner preferred an appeal before the Lower Appellate Court and the same was also dismissed vide judgment dated 18.05.2015. The Lower Appellate Court, while dismissing the appeal, recorded the following findings:

“14. it is pertinent to jot down here that in an appeal against acquittal, there is no embargo on appellate Court for reviewing the evidence, upon which an order of acquittal is based. It is settled principle of law that generally order of acquittal should not be interfered with, because presumption of innocence of the accused is further strengthened by acquittal, I draw support to my view in this regard from the law laid down in State of Madhya Pradesh Versus Bacchudas @ Balram and others 2007 CrL LJ 1661-2007(1) Recent Apex Judgments (R.A.J.) 490.

15. Keeping in view above legal proposition, I have gone through record of this case and it is found from statement of PW1 Dr. Surinder Pal that complainant had contusion on right shoulder, lacerated wound on little finger, complaint of pain on neck, complaint of pain of calf muscle on left leg and complaint of pain on left side of pelvis. He has fracture of proximal phalanxes of little finger, injuries are alleged to have been inflicted with gandas, but there is no incised wound or injury, which may be said to be caused with gandas. While appearing in witness box as PW-4, he has stated that on the alleged day of occurrence, he had been going to his land on his tractor trolley and this occurrence was witnessed by Major Singh, said Major Singh has appeared as DW1 and has specifically deposed that no such occurrence had taken place in his presence. It is true that Major Singh was given up as having been won over by respondents-accused, but that does not mean that he has been deposing falsely.

16. Apart from Major Singh, there were labourers with complainant-appellant, who had been accompanying him on tractor-trolley after loading manure, but none of them has been cited in the list nor has been examined in the Court and it is another factor to doubt credibility of the complainant-appellant. He has admitted in cross-examination that at the time of alleged occurrence, there could be many other persons working in their lands nearby, but none of them has been joined in the investigation and has not been examined in Court.

17. In the light of above shaky and unbelievable evidence, learned Lower Court has rightly acquitted respondents-accused and I am of the view that impugned judgment is neither perverse nor against facts.

18. Resultantly, appeal in hand is dismissed. Respondents-accused are on bail. Their bail bonds stand discharge.”

Learned counsel for the petitioner has argued that it is proved from the statement of PW-1 that the petitioner has suffered injuries which are reflected in the MLR report as well as X-ray report of the petitioner/injured-complainant. Moreover, it is also proved from the statement of the petitioner, who has appeared as PW-4 that the respondents-accused in conspiracy with each other caused injuries to the petitioner/complainant.

I find no merit in the submission made by the counsel for the petitioner. It has come on record from the statement of DW-1 Major Singh that he has not witnessed any such occurrence as alleged in the FIR. Moreover, as per the statement of PW-5 -ASI Raj Dheem, it has come on record that the complainant was adamant not to join any other independent person during the course of investigation. PW-4 petitioner/complainant has stated that at the time of occurrence, there were some labourers, accompanying with him on his tractor-trolley, he neither informed their

names to the Investigating Officer nor they were asked to join as a witness.

It has also come on the record from the statement of PW-1 Dr. Surinder Pal that the injuries sustained by the petitioner could have been caused due to fall on hard surface and the version given by the petitioner that the accused persons caused injuries to him with a gandasi, is not supported by the medical version and is not shown in the MLR. Therefore, I find that both the courts below have rightly acquitted the accused.

In view of the above, finding no merit, revision petition is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

19.09.2017
Hemlata

Whether speaking/reasoned	Yes / No
Whether reportable	Yes / No