

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

CRR-3308-2014

Date of decision : 19.01.2017

Sukhwinder Singh

...Petitioner

Versus

Amrik Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Bhupender Singh, Advocate,
for Mr. Manish Gupta, Advocate,
for the petitioner.

Mr. Luvinder Sofat, Assistant Advocate General, Punjab,
for respondent No.4-State.

JITENDRA CHAUHAN, J.

The instant revision petition has been filed by the complainant/ petitioner, impugning judgment dated 17.07.2014, passed by learned Additional Sessions Judge, Patiala (for short, 'the appellate Court'), whereby, the appeal preferred by the petitioner, against the judgment of acquittal dated 20.11.2013 (Annexure P-1), passed by learned Judicial Magistrate Ist Class, Nabha, (for short, 'the trial Court') has been dismissed and the accused-respondents have been acquitted in FIR No.5 dated 26.01.2012, registered under Sections 341, 323, 325, 279 and 506 read with Section 34 of the Indian Penal Code (for short, 'IPC') at Police Station Bhadson.

Brief facts have been noticed in the judgment dated 17.07.2014, which reads as under:-

“3. The facts in brief of the prosecution case are that on 26.01.2012, on receipt of a medical slip of injured

Sukhwinder Singh in the police station, State vs. Amrik Singh 2 Bhadson from CHC Bhadson, ASI Baljinder Kumar along with other police party reached CHC, Bhadson and recorded the statement of injured/complainant Sukhwinder Singh wherein he narrated that on that day he along with his father Ralla Singh was present in their fields and they were irrigating the wheat crop standing therein. In the meantime, Amrik Singh came on his tractor at the spot and tried to run over his tractor over the wheat crop of the complainant, as there is no passage to approach the fields of Amrik Singh. When the complainant stopped him from doing so, then Amrik Singh ran over his tractor on the left leg of the complainant. Ralla Singh, father of the complainant raised an alarm and in the meantime, Mandeep Singh son of Amrik Singh and Gurdev Singh son of Kaka Singh also reached at the spot armed with 'danda sota'. Mandeep Singh gave a 'danda' blow on the legs of father of the complainant. The complainant and his father raised hue and cry, which attracted Satnam Singh to the spot. Thereafter all the accused fled from the spot and while leaving the spot, they threatened the complainant to kill him.

4. On the basis of this statement made by the complainant, the present case was registered against the accused and investigation was carried out in the course of which statements of witnesses were recorded, site plan of the place of occurrence was prepared, accused were arrested. Further investigation was carried out and on completion of the investigation, challan against the accused was presented in the court.”

Accused/respondents were charge-sheeted under Sections 341, 279, 325, 323, 506 read with Section 34 IPC to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined complainant Sukhwinder Singh as PW1, Rajwinder Singh, Clerk from Civil Hospital, Nabha as PW2, Ralla Singh, father of the complainant as PW3, Satnam Singh, eye witness as PW4, Dr. Amandeep Singh as PW5, Dr. R.K.Banga as PW6, Dr. Baljit Kaur as PW7, HC Rajinder Singh, mechanic as PW8, ASI Baljinder Kumar, Investigating Officer as PW9 and HC

Gurpreet Singh as PW10 and thereafter, closed its evidence.

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, the accused/respondents examined Bhim Singh as DW1 and Jagan Nath as DW2 and thereafter, closed their defence evidence.

After hearing learned counsel for the parties, learned trial Court found that prosecution had failed to prove its case beyond shadow of reasonable doubt and the accused/respondents were acquitted, vide judgment 20.11.2013.

Feeling dissatisfied, the complainant filed an appeal before the first appellate Court, which was also dismissed, vide judgment dated 17.07.2014.

Still feeling aggrieved, the instant revision petition has been filed by the petitioner, assailing both the aforesaid judgments dated 20.11.2013 and 17.07.2014.

Learned counsel for the complainant/petitioner contends that the Courts below have erred in acquitting the accused/respondents inasmuch as there was sufficient evidence on record to warrant the conviction of the accused/respondents. The learned trial Court misinterpreted and wrongly considered the documents produced by the prosecution. Consequently, the accused are liable to be convicted and sentenced as per law.

On the other hand, learned counsel for the accused-respondents contends that the complainant/petitioner had failed to prove the charges

framed against the accused/respondents and sought dismissal of the revision petition.

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

PW-4 Satnam Singh, who is stated to be an eye-witness of the occurrence, in his cross-examination, admitted that he had not seen the occurrence but he was called by PW-3 Ralla Singh, father of the complainant/petitioner, when complainant/petitioner-Sukhwinder was being taken to the hospital. Therefore, his version is not of much significance. Complainant/petitioner-Sukhwinder Singh and his father PW3-Ralla Singh, in their cross-examination have admitted that in their land, there was an area in the vicinity of the well, reflected as 'Tour of the well', which was in possession of accused/respondent No1. Amrik Singh. They have also admitted that accused/respondent No.1 Amrik Singh had laid heaps of chaff in the said area. They have also admitted that there is a road near their land and the area in question is 12/13 karams away from this road. Rather, complainant/petitioner Sukhwinder Singh has admitted in his cross-examination that the only dispute with the respondents/accused is with regard to the area near the well and he always stopped the respondents from going there. It also remains unexplained as to how none from the vicinity of the place of occurrence, i.e., deras and field nobody came to the spot to rescue the petitioners.

Further, no medical report with regard to injury caused to PW3-Ralla Singh by the respondents was brought on record. Moreover, the doctors, in their cross-examination, have admitted that it cannot be ruled out

that the injuries caused to the petitioner could be sustained by a fall. There is also no evidence on record which shows that the wheat crops of the complainant/petitioner were damaged by the respondents.

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 passed by the courts below 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