

In the High Court of Punjab and Haryana at Chandigarh

CRR No.2801 of 2016

Date of decision: August 08,2017

Hari Chand

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.G.S.Hayer, Advocate for the petitioner.

ARVIND SINGH SANGWAN, J.

Petitioner-complainant-Hari Chand has filed the present petition under Section 401 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short) challenging judgement dated 9.10.2015 passed by the trial Court, whereby all the accused were acquitted of the charges under Sections 326,324,323 read with Section 34 of the Indian Penal Code, 1860 ('IPC' for short) , in FIR No. 2 dated 22.7.2010 registered at Police Station Lakhewali, as well as the judgement dated 28.4.2016 passed by the appellate Court dismissing the appeal filed by the petitioner-complainant.

Learned counsel for the petitioner submits that both the Courts below have wrongly acquitted the respondents-accused as the prosecution has led sufficient evidence to prove the guilt of the respondents.

Prosecution case set up in the FIR is that on 19.7.2010, on receiving an information, the Investigating Officer, Assistant Sub Inspector Nirbhay Singh, reached Civil Hospital Muktsar who was informed by the injured that a compromise talk is going on between the parties and they do not want to get their statement recorded. On 20.7.2010 and 21.7.2010, he again visited the hospital and injured persons again reiterated their earlier stand regarding the compromise talk is going on. On 22.7.2010, injured persons got their statement recorded narrating the incident that on 18.7.2010, at about 8.00 p.m, the accused persons caused injuries to them on account of cleaning the water course of their land. The police, after completing the investigation. submitted the report under Section 173 Cr.P.C. and, thereafter, charges under Sections 326, 323, 324 read with Section 34 IPC were framed against the petitioners and they faced the trial. Prosecution examined PW1 Amarjit Singh, son of complainant, PW3 Mandeep Singh, PW4 Sarabjit Kaur, PW5 Sub Inspector Nirbhai Singh (retired), PW6 Dr.Hari Narain Singh SMO, PW7 Head Constable Sukhwinder Singh, PW8 Dr. Ranju Singla, Medical Officer, PW9 MHC Baljeet Raj and PW10 Hari Chand, complainant-injured.

After closing the evidence of the prosecution, statement under Section 313 Cr.P.C. was recorded and in support of their defence, the accused examined DW1 Jagpal Singh, Panchayat Secretary, DW2 Dalwinder Singh, DW3 Kabal Singh, Ex-sarpanch, DW4 Sukhpal Singh and DW5 Inspector Jeet Singh along with certain documents.

Learned trial Court vide judgment dated 9.10.2015 framed points for determination as to whether on 18.7.2017, the accused persons

caused injuries to the complainant and committed offence punishable under Section 326 read with Section 34 IPC; 324 read with Section 34 IPC and 323 read with Section 34 IPC, and decided all the points against the prosecution. Feeling aggrieved the complainant filed the appeal before the appellate Court and the appellate Court also dismissed the appeal vide judgment dated 28.4.2016.

Learned counsel for the petitioner has argued that from the statement of the injured-complainant, supported by the other injured witnesses, the petitioners have proved the guilt of the accused and the same is duly corroborated by the medical evidence in the shape of statements of PW6 Dr.Hari Narain Singh and PW8 Dr.Ranju Singla and,therefore, the Courts below have wrongly acquitted the respondents-accused.

After hearing the learned counsel for the petitioner, I find no substance in the argument of the learned counsel for the petitioner.

Both the Courts below have concurrently held that the statements of the prosecution witnesses do not inspire confidence, firstly, there is no explanation of delay as the alleged occurrence took place on 18.7.2010,whereas, the FIR was registered on 22.7.2010. It is mentioned in the FIR itself that during the intervening period talks of compromise were going on between the parties ,therefore, no statement was got recorded by them. This fact itself shows that the complainant party was not interested in lodging the FIR and only after four days, they have decided to register the FIR, It is also apparent from the record that the medical evidence does not clearly support the case of the prosecution. It has come in the statement of PW6 Dr.Hari Narain Singh,who conducted the x-rays and MLRs of

injured witnesses that the possibility of self-inflicted injuries on all the injured persons i.e. Hari Chand, Sarabjit Kaur, Amarjit Kaur and Mandeep Singh cannot be ruled out. This observation of PW6 also makes out the prosecution case doubtful as it is apparent that for a period of four days, the complainant party never registered the FIR and kept on lingering the matter for effecting compromise. As per the statement of PW6, all the injuries are on the non-vital part of the person of the complainant and, not grievous, therefore, no offence under Section 326 IPC is made out. It has also come on record that there are material contradictions in the statements of prosecution witnesses regarding occurrence, manner of attribution of injuries to the accused persons etc.

It is also relevant to notice that the respondents-accused in their defence evidence have been able to substantiate their case that there is a political enmity between the two parties. On comparative appreciation of the statement of the prosecution witness with the defence witness, it is apparent that the testimony of defence witness is more trust worthy and reliable as they are consistent in saying that the accused persons have been falsely implicated on account of party faction in the village and they are falsely implicated. Moreover, it has also come in the statement of prosecution witness that at the time of alleged occurrence, Gurdev Singh, Joginder Singh and Mandar Singh were also present at the spot but they were never made a witness to prove the prosecution version.,

Since both the Courts below have recorded the concurrent finding that the petitioner-complainant has failed to prove his case, in view of the judgment of Hon'ble the Supreme Court in **Allarakha K. Mansuri**

v. State of Gujarat, 2002(1) RCR (Criminal) 748, holding that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court, the impugned judgments do not call for interference. Accordingly, this revision petition is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

August 08, 2017
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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No