

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRR-4634-2016

Date of Decision: 24.7.2017

Tara Chand

..Petitioner

versus

Ganpat and others

..Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

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

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant revision petition has been made for setting aside the judgment of acquittal dated 27.1.2014 passed by the learned Sub Divisional Judicial Magistrate, Pataudi (Annexure P-3) and the judgment dated 10.8.2016 passed by learned Additional Sessions Judge, Gurgaon (Annexure P-1) affirming the judgment of the trial court while dismissing the appeal filed by the appellant.

The petitioner claiming himself to be a tenant under respondent no.4 Niranjan Lal over a shop measuring 17 x 30 feet, situated at Haily Mandi, filed a written complaint to the police against the respondents levelling allegations that on 17.7.2005, the respondents called him at Arya Samaj Mandir and forced him to vacate the shop with the threatening to kill him, in case, the same was not vacated. Taking advantage of the rain, the shop was demolished. When the petitioner tried to stop the respondents from demolishing the shop, they gave him beatings with axe and sickle etc.

The respondents also snatched the camera from the petitioner, when he tried

to take photographs of the incident. Some of the respondents were under the influence of liquor and the petitioner could save himself by taking shelter in the Police Post Haily Mandi. Taking cognizance of the said complaint, FIR no.99 under sections 148/149/323/454/427 and 506 IPC was registered against the respondents.

After submission of the final report under Section 173 of the Code of Criminal procedure against the respondents, the trial commenced and after analysing the evidence on record, respondents were acquitted of charges levelled against them extending the benefit of doubt vide judgment dated 27.1.2014 (Annexure P-3) by the trial court.

Being dissatisfied, the petitioner preferred an appeal, which too was dismissed vide judgment dated 10.8.2016 by the learned Additional Sessions Judge, Gurgaon, affirming the aforesaid judgment (Annexure P-3)

Learned counsel for the petitioner has contended that from the suggestions put to the petitioner, while appearing as PW1, during his cross-examination that the owner was ready to give him the rent receipt, but he did not accept the same and to PW2 Sanjay that only pushes were given to the petitioner in a scuffle took place between the parties tantamount to admission of the respondents-accused about the tenancy of the petitioner under Niranjana Lal, over a shop and happening of incident as narrated by the petitioner and thus, both the courts below have wrongly acquitted the respondents by misreading and misconstruing the evidence on the record.

After giving my thoughtful consideration to the submission made by learned counsel for the petitioner, I find that the instant revision petition is completely devoid of any merit for reasons to follow:-

- (i) In order to prove his case, the petitioner had to stand his

own legs. He cannot be permitted to take advantage of some vague suggestions which do not go to the root of the case. It is pertinent to mention that the above suggestions and answers given by the prosecution witnesses during their cross-examinations do not, by in itself, prove relationship of landlord and tenant in between the petitioner and respondent no.4 Niranjan Lal. The said suggestions and replies are vague in nature and if the statements of the prosecution witnesses are read as a whole, the only irresistible conclusion, which can be drawn, is that, the prosecution could not prove its case to the hilt beyond any shadow of reasonable doubt to record conviction of the respondents.

(ii) No rent receipt, electricity bills, account book or any lease agreement in between the petitioner and respondent no.4 Niranjan Lal was produced by the petitioner during the trial of the case. Therefore, the relationship of landlord and tenant in between the petitioner and Niranjan Lal is nothing, but is a concocted story put-forth by the petitioner, which too have gone unproved.

(iii) The petitioner, in his cross-examination as PW1 categorically admitted that on the fateful day, it was raining heavily. Suggestion made to him by the learned defence counsel that the demised shop had fallen due to heavy rains, seems to be relevant and significant. In view of the above admission made by the petitioner that on the fateful day it was a rainy day, the respondents have rightly been given the benefit

of doubt.

(iii) No independent witness was joined by the petitioner.

Even the petitioner has also not been able to produce any bill/receipt in support of his assertion that he had kept valuable goods in the demised shop for the purpose of sale.

In view of the discussion made above, I do not find any merit in the revision that may call for interference by this court. Resultantly, the revision, devoid of any merit, fails and is hereby dismissed.

24.7.2017
VK

(RAMENDRA JAIN)
JUDGE

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| 1. | Whether reasoned/speaking | Yes/No |
| 2. | Whether Reportable | Yes/No |