

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-4948-2016 (O&M)

Reserved on: 23rd October, 2017

Pronounced on: 2nd November, 2017

Ranjit Singh

..Petitioner

versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Ramesh Sharma, Advocate, for the petitioner

Ramendra Jain, J

CRM 41178 of 2016

1. For the reasons stated in the application for condonation of delay of 19 days in filing the revision, which is duly supported by an affidavit, the same is allowed. Delay of 19 days in filing the revision is, accordingly, condoned.

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2. Through this revision filed under section 401 of the Code of Criminal Procedure, the petitioner has challenged the judgment dated 10.8.2016 of the first appellate court convicting and sentencing him for the offence under sections 353/34 IPC and 506/34 IPC, on an appeal filed by the State of Punjab against the judgment of acquittal dated 11.8.2015 passed by the trial court, in the following terms:-

353/34 IPC

To undergo RI for a period of two years and pay

a fine of Rs.200/-.In default thereof, further undergo

simple imprisonment for one month.

506/34 IPC To undergo RI for a period of one year and pay
a fine of Rs.100/-.In default thereof, further undergo
simple imprisonment for one month.

Both the sentences were ordered to run concurrently.

3. The facts necessary for disposal of this case are that on the basis of the statement of complainant Head Constable No.481 Amar Singh of Police Station Mehatpur recorded by ASI Ashok Kumar at 7.00 P.M on 29.06.2003, he along with Constable No.3315 Kulwinder Singh was deployed on duty in the panchayat elections at Booth No.116 in village Bangiwal Khurd. Surinder Kaur wife of Ranjit Singh and Jasbir Kaur wife of Nirmal Singh were contesting the elections for the post of Sarpanch. Kuldeep Singh was the Presiding Officer of the said Booth. From the very beginning, petitioner Ranjit Singh, his brother Joginder Singh and their father Kashmir Singh had been making endeavours to poll bogus votes in favour of Surinder Kaur wife of Ranjit Singh. The complainant HC Amar Singh, in discharge of his official duty, had been preventing the petitioner from doing such illegal act. Therefore, the petitioner was having a grudge against him. At around 3.50 PM, petitioner Ranjit Singh, Joginder Singh and their father Kashmir Singh came to the spot exhorting lalkaras. Ranjit Singh gave a lalkara shouting that this Hawaldar is going to make us lose the panchayat elections as he was not allowing them to poll bogus votes. He provoked his above accomplices to catch hold the complainant for teaching him a lesson. Accused Joginder Singh caught hold him by the collar of the shirt of his uniform. Accused Ranjit Singh and his father Kashmir Singh hit the complainant with fist cuffs. During this scuffle, the button of the collar

of the shirt of his uniform, the shoulder paulette were broken and his shirt had torn. He raised a hue and cry, whereupon his colleagues, namely, constable Kulwinder Singh and Kuldeep Singh, Presiding Officer, came to his help and saved him from the clutches of the accused. On the basis of this statement, FIR under sections 353, 186 and 506 read with sections 34 IPC was registered against the accused. On completion of necessary investigation, a final report under section 173 of the Code of Criminal Procedure was presented before the trial court.

4. Copies of challan, as enshrined under section 207 of the Code of Criminal Procedure, were supplied to the accused. Accused were charge sheeted under sections 186, 353, 506 read with section 34 IPC, to which they pleaded not guilty and claimed trial.

5. It would be apt to mention that during the trial, accused Joginder Singh and Kashmir Singh expired and as such, proceedings against them were abated vide order dated 23.12.2009.

6. After closure of the evidence by the prosecution, statement of the accused under section 313 of the Code of Criminal Procedure was recorded, putting the entire incriminating evidence appearing against him. He, however, denied the same and pleaded false implication. However, the petitioner himself stepped into the witness box as DW1 and thereafter, he closed his defence evidence.

7. Learned counsel for the petitioner has vehemently contended that at the time of polling votes, the complainant did not make any complaint to the Presiding Officer of the Polling Station. Even the Presiding Officer of the Polling Station did not report for any bogus votes polled by the petitioner. The trial court has rightly acquitted the petitioner

of charges levelled against him. The first appellate court committed a grave error in not appreciating the evidence on the record in its correct perspective and has wrongly convicted the petitioner.

8. Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, the revision, being without any merit, fails and is liable to be dismissed for the reasons to follow:-

9 While appearing in the witness box as PW1, complainant HC Amar Singh (now ASI) deposed that Surinder Kaur wife of Ranjit Singh was contesting panchayat elections. The husband of the contesting candidate, namely, Surinder Kaur (who is none else, but the petitioner) was trying to poll bogus votes. He prevented him from doing illegal act whereupon, petitioner could not poll bogus votes. On account of non-polling of bogus votes, he got furious. At 3.50 P.M. he along with his brother Joginder Singh and father Kashmir Singh (both deceased) attacked him. The petitioner tore his uniform and gave him fist cuffs. PW6 Kamaljit Singh, who was posted as Moharrir Head Constable at Police Station Mehatpur, produced the torn shirt of the complainant. The prosecution, in order to show its bona fide, examined HC Gurdev Singh as PW4, who deposed that on 29.6.2002 HC Amar Singh was posted in Police Station Mehatpur and was on election duty at village Bangiwal Khurd.

10 The most important witness, in whose presence, the incident of preventing the petitioner from polling bogus votes, assaulting him and tearing his uniform, was Constable Kulwinder Singh. He stepped into the witness box as PW3 and categorically deposed that complainant HC Amar Singh, in discharge of his official duty, prevented the petitioner from polling bogus votes. He admitted that the petitioner, in his presence, used

criminal force against HC Amar Singh and tore his uniform. Kuldeep Singh, Presiding Officer of the Polling booth, while appearing in the witness box as PW-2, corroborated the version of PW1 complainant HC Amar Singh and PW3 constable Kulwinder Singh, the eye witness to the occurrence. He testified that HC Amar Singh and Constable Kulwinder Singh were on election duty. He, in his cross-examination, deposed that when he heard the sound of quarrel outside the polling station, he saw the accused assaulting the complainant HC Amar Singh. He further deposed that the accused tore the uniform of HC Amar Singh. He even deposed that he himself (PW2) and PW3 Constable Kulwinder Singh intervened and rescued the complainant from the clutches of the accused. He informed the police regarding the occurrence by a telephonic call given to the DSP, Nakodar. The factum of the occurrence is also admitted by the petitioner, when he himself stepped in the witness box as DW1. He, in his cross-examination, admitted that his wife Surinder Kaur was a candidate in the election. He also admitted that he, his brother and father made all possible efforts to win the election. He did not deny that complainant HC Amar Singh and Constable Kulwinder Singh were not on duty. He also admitted that occurrence took place at 4.00 PM. The reason for quarrel given in his statement recorded under section 313, Code of Criminal Procedure, was that since the rival party was making an attempt to cast bogus votes, therefore, the fight took place. On the basis of the strength of the ocular version of the complainant corroborated by the eye-witnesses, aforesaid, it has been established on the record beyond reasonable doubt that a scuffle took place between the complainant and the petitioner on account of polling of bogus votes by the petitioner and when he was prevented from doing so, he resorted to a

criminal force, assaulted him and torn his uniform, which fact has been admitted by him while appearing in the witness box as a defence witness. The observation made by the first appellate court that the petitioner has not been able to lead any evidence to prove that it was the complainant who was assisting the rival candidate Jasbir Kaur wife of Nirmal Singh by polling bogus votes in her favour. in my considered view, is justified, inasmuch as the petitioner had taken this plea in the his statement recorded under section 313 of the Code of Criminal Procedure. Therefore, the contention of the learned counsel for the petitioner that there was no written complaint before the Presiding Officer of the Polling Booth with respect to polling of bogus votes by the petitioner, can not at all be countenanced, keeping in view the fact that the police officer, present on duty, has to ensure the law and order situation at the spot and also to ensure that no untoward incident, such like polling of bogus votes by the candidates and their supporters occurred. In the instant case, the complainant prevented the petitioner from doing illegal acts, which resulted in scuffle between the two and in that process, his uniform was torn. Matter was reported to the police. On the statement of the complainant, the case was got registered against the petitioner.

11 It is also an admitted fact that the occurrence, allegedly, took place at 3.50 P.M. The polling was admittedly to continue till 5.00 P.M. The petitioner, made an attempt to poll bogus votes, so that his wife Surinder Kaur could win the election. The learned first appellate court has rightly threshold the observation of the trial court that the complainant had improved his version by asserting that the accused inflicted him fist blows.

The complainant, in his statement Ex.PA, got recorded by the Investigating

Officer on 29.6.2003, has categorically stated that the three accused man-handled him and gave him fist-cuffs. On the basis of the evidence discussed above, this court has no hesitation in observing that the learned first appellate court, on appreciation of evidence available on the record, has rightly reached to its conclusion in convicting and sentencing the petitioner of the offence committed by him. The trial court, in my considered view, misread and misconstrued the evidence available on the record and recorded acquittal of the petitioner based on wrong assumption. In the facts and circumstances of the case, the learned first appellate court has, on appreciation of evidence, rightly set aside the judgment of acquittal passed by the trial court.

12 In view of the foregoing discussion, the revision petition, being without any merit fails and is hereby dismissed. Resultantly, the impugned judgment of conviction and sentence recorded by the first appellate court, while reversing the judgment of acquittal of the trial court, is affirmed.

13 A copy of the judgment be sent to the learned Chief Judicial Magistrate, Jalandhar, for compliance. In case the petitioner is on bail, issue warrant of his arrest to undergo remaining sentence.

2nd November, 2017
VK

(RAMENDRA JAIN)
JUDGE

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