

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-D-1660-DB-2014 (O&M)

Date of decision: August 23, 2018

Hari Ram

.....Appellant

Versus

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. J.S. Mehndiratta, Advocate for the appellant.

Mr. Vivek Saini, DAG, Haryana.

A.B. CHAUDHARI, J. (Oral)

Heard learned counsel for the rival parties at length.

This is an appeal against acquittal filed by the complainant in Criminal Case No.RT-02 of 2011 decided on 21.07.2014. There were 16 accused in the said case. Going through the case of the complainant, we find that 16 persons along with some un-identified persons, had entered his village on five tractors for taking possession and that they had assaulted him. The doctor's report did not support the version at all. The trial Court found so in Para-46 of the judgment, which reads thus:-

“46. The complainant has alleged that on the date of occurrence, all the accused entered in his fields and caused injuries to him and PW Manoj, PW-11 Dr. Abhimanyu has proved the MLR Ex.PW-11/A of the complainant and Ex.PW-11/B of PW Manoj. He has admitted that there was no visible mark of injury on person of Hariram and Manoj Kumar. The MLR Ex.PW-11/A and affidavit of PW-11 Dr. Abhimanyu Ex.PW-11/C shows that complainant Hariram

disclosed three injuries and all three injuries were complaint of pain and no swelling was present. PW Manoj disclosed two injuries and both of them were complaint of pain on left side of chest and thigh, but no swelling was present. It is not believable that 16 accused attacked upon the complainant and PW Manoj and did not cause any visible injury to them. Therefore, It is concluded that the prosecution has failed to prove that any injury was caused to PW Hariram and Manoj Kumar by the accused. On the other hand, accused have examined DW 4 Rameshwar Dayal, Clerk in Government Sr. Sec. School, Bhojawas who produced the summoned record and stated on oath that on the date of alleged occurrence i.e. 20.06.2011, accused Hoshiyar Singh was serving as a teacher and on that day accused Hoshier was present on duty from 7.30 AM to 2.30 PM. His statement has also been corroborated by DW-5 Budh Ram who has stated on oath that he is also posted as a Teacher in Government Sr. Sec. School, Bhojawas and on 20.06.2011, accused Hoshiyar Singh remained present in the school from 7.50 AM to 1.00 PM. Therefore, statement of the complainant that on 20.06.2011 at around 9.30 AM, all the accused including accused Hoshiyar Singh entered the fields in question is not believable.”

That apart, the trial Court had found that there is a serious dispute regarding the possession of the suit property. Though the complainant claimed to have purchased such property and was given possession, no documentary proof as such was filed. On the contrary, there was reason to believe that there was a serious dispute regarding suit for possession of the said property wherein the incident took place.

In that view of the matter, in recording order of acquittal, the view

is probable. It would not be possible to interfere with the order of acquittal.

Hence, the appeal is dismissed.

(A.B. CHAUDHARI)
JUDGE

(KULDIP SINGH)
JUDGE

August 23, 2018
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Whether speaking/ reasoned:	Yes/No
Whether Reportable:	Yes/No