

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

**CRR No.1366 of 2015
DECIDED ON: 27.11.2018**

KULWINDER SINGH

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Narender Lucky, Advocate
for the petitioner.

Mr. Harpreet Multani, AAG, Punjab.

RAMENDRA JAIN, J. (ORAL)

Complainant through instant revision assailed the judgment of the appellate court dated 17.01.2015, affirming the judgment dated 25.11.2013 of the trial court, acquitting respondents No.2 to 5, in case FIR No. 331 dated 16.09.2008, under Sections 452, 447, 506, 148 and 149 IPC at Police Station Sadar, Amritsar.

Briefly, respondents No.2 to 5 were booked in aforesaid FIR and after holding trial, the trial Magistrate acquitted them vide judgment dated 25.11.2013.

Feeling aggrieved, the petitioner approached the first appellate court, but remained unsuccessful as his appeal too was dismissed, vide judgment dated 17.01.2015.

Learned counsel for the petitioner has limited his arguments

mainly on two counts. Firstly, civil court judgment was in favour of the private respondents and secondly, prosecution did not examine the investigating officer.

Learned counsel contends that both the courts below have failed to appreciate that civil court judgment was in favour of respondents No.2 to 5 qua khasra No. 122/32/2/2, whereas, the disputed plot of the petitioner comprises khasra No.122/32/1. For the fault of the prosecution for non-examination of investigating officer, the petitioner could not have been made to suffer. The applications of the petitioner under Sections 311 and 391 Cr.P.C. to summon additional accused and leading additional evidence moved before the trial court and appellate court, respectively, were wrongly dismissed by both the courts below.

Having given anxious consideration to the submissions made by learned counsel for the petitioner, I find the instant petition completely devoid of any merit for the reasons to follow:-

1. The petitioner as PW2, in his cross-examination had categorically admitted that there was a dispute regarding property bearing khasra No.122/32/2/2 between the parties. He also admitted that judgment of civil court Ex.D-1 was in favour of the private respondents. The above admission of the petitioner in his cross-examination, smashed his entire case.

2. Link evidence is also missing in this case. Initially,

DDR, which later on converted into FIR was recorded on the statement

of the petitioner on the basis of information allegedly received by him from a security guard. Therefore, undisputedly, at the time of alleged occurrence, the petitioner was not present at the spot. What ever had happened on the spot, had happened in his absence, which was witnessed by security guard of the petitioner. However, the prosecution did not examine the said security guard. Therefore, the entire allegations of the petitioner against private respondents being based on hearsay, have rightly not been considered by both the courts below.

3. The petitioner, though, claimed ownership of his wife over khasra No.122/32/1, but did not place on record any ownership proof in support of his above assertion and that he was attorney of his wife, during trial. Therefore, in the absence of proof of ownership of the petitioner or his wife over the disputed area, it did not lie in the mouth of the petitioner as complainant that the disputed area belonged to him.

4. As on date, private respondents are armed with a civil court decree in their favour, to which the petitioner had laid challenge in appeal, which too, has been withdrawn by the petitioner on the statement of the private respondents that they do not have any interest in Khasra No.122/32/1.

5. Since, no independent witness was examined by the prosecution, in support of his assertion, except PW-1 Jagtar Singh, who, in his cross-examination categorically admitted that he was an employee of the petitioner since long, therefore, he has rightly been

termed as interested witness. Moreso, this witness categorically testified that no bodily injury was ever caused to him by the private respondents. Therefore, the only allegation remains against the respondents is with respect to abusing the petitioner, which too, is not in his presence.

I have gone through the judgments of both the courts below and find no illegality or perversity warranting no interference therein.

Dismissed.

27.11.2018

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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No