

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

210

CRR-2118-2014

Date of Decision:18.08.2018

Raj Pal and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Ms. Mehak Sawhney, Advocate for
Mr. Naveen S. Bhardwaj, Advocate,
for the petitioners.**

**Mr. Ramesh Kumar Ambavta, A.A.G., Haryana,
for the respondent-State.**

HARI PAL VERMA, J.(Oral)

Petitioners have filed the present revision petition impugning the judgment dated 03.07.2014 passed by learned Additional Sessions Judge, Bhiwani, whereby their appeal against the judgment of conviction dated 14.03.2012 and order of sentence dated 15.03.2012 passed by learned Judicial Magistrate 1st Class, Bhiwani, was dismissed.

Briefly stated, FIR No.136 dated 11.08.2006 under Sections 147, 149, 323, 325 IPC, Police Station Bawani Khera, was registered against the petitioner on the allegation that on 19.07.2006, when HC Satpal Singh along with other police officials was present at M.H. Bawani Khera in connection with investigation of some case, the doctor handed over two

medical rukkas regarding admission of injured in the hospital. Accordingly, statement of the complainant was recorded. The complainant had stated that on 19.07.2006 at about 2.00 PM, when he was coming to his house with his buffaloes, Dharambir son of Nand Lal threw cow dung on him from his house. For this act, the complainant objected. Resultantly, accused threw stones on him, which hit him on the waist and other parts of his body. In the meantime, accused Ram Mehar son of Rattan Lal Ramotar and Ved Parkash sons of Rattan Lal and Billu son of Dharampal, all residents of village Baliyali came there. They were carrying lathi and dandas in their hands and the accused gave beatings to the complainant. When the complainant raised an alarm, his nephew Joginder and one Roshan Lal came there to rescue him, but they were also beaten by the accused persons with lathi and dandas. They arranged a vehicle and had taken the complainant to the hospital.

Learned Judicial Magistrate 1st Class, Bhiwani, found that charge under Sections 147, 149, 325 IPC was not proved against the accused and accordingly, the petitioners were acquitted. However, the trial court held the petitioners guilty for the offence punishable under Section 323 IPC vide judgment dated 14.03.2012. The petitioners filed an appeal against the judgment of conviction dated 14.03.2012 and order of sentence dated 15.03.2012. Similarly, the complainant also preferred an appeal, seeking enhancement of sentence. Both the appeals were dismissed.

Learned counsel for the petitioners has argued that in fact once the allegation of offences under Sections 147, 149, 325 are not proved, it leads to a conclusion that very FIR registered against the petitioners was false. Interestingly, the injuries so suffered by the complainant-injured,

have not been authenticated by a doctor. She has drawn the attention to the evidence of Dr. J.B. Sharma, PW-8, who in his cross-examination has deposed that injuries suffered by the complainant may have been caused by falling on a hard surface.

On the other hand, learned State Counsel has argued that since the petitioners have filed a revision petition and the scope of revision is very limited and no evidence can be appreciated, the petition deserves to be dismissed. There is no illegality in the impugned judgments passed by learned courts below, whereby the petitioners have been convicted and sentenced for offence under Section 323 IPC.

I have heard learned counsel for the parties.

The very grievance of the complainant in the case in hand is that he received injuries at the hands of the petitioners-accused. The allegation was that the accused had caused grievous injuries and in the FIR, as many as 04 persons were arrayed as accused. However, the trial court found that the injuries were not grievous in nature, rather simple and therefore, convicted them under Section 323 IPC. At the same time, trial court found the petitioners innocent for the offences punishable under Sections 147, 149, 325 IPC. The theory propounded by the complainant cannot be accepted in part. PW-8 Dr. J.B. Sharma while appearing as a witness, during his cross-examination had deposed that the injuries may have been caused by falling on a hard surface as well. Therefore, once the petitioners have been acquitted of other offences and the doctor has opined that the injuries to the complainant may have been caused by falling on a hard surface, this Court finds that the petitioners deserve to be given the benefit of doubt.

Accordingly, the present revision petition is allowed and the impugned judgment dated 03.07.2014 passed by learned Additional Sessions Judge, Bhiwani as well as judgment of conviction dated 14.03.2012 and order of sentence dated 15.03.2012 passed by learned Judicial Magistrate 1st Class, Bhiwani, are hereby set aside. The petitioners are acquitted of the charge framed against them.

August 18, 2018
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No