

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 600 of 2015 (O&M)

Date of decision : 5.3.2018

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Avtar Singh

.....Petitioner

vs.

State of Punjab and others

.....Respondents

Coram: Hon'ble Mr. Justice H. S. Madaan

Argued by: Mr. Satbir Rathore, Advocate
for the petitioner.

Mr. Rakeshinder Singh Sidhu, Assistant Advocate General,
Punjab.

Mr. Madan Sandhu, Advocate for respondents No. 2 and 3.

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H. S. Madaan, J.

This revision petition has been filed against the judgment dated 12.12.2014 passed by the Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur, vide which the said Court had dismissed the appeal preferred against the judgment dated 7.8.2014, delivered by the Court of Sub Divisional Judicial Magistrate, Garhshankar, acquitting Om Parkash and Rachhpal Singh - respondents No. 2 and 3 of the charge framed against them.

Briefly stated facts of the case, as per prosecution story are that the FIR in question was recorded by the police of Police Station

Garhshankar, on the basis of statement of complainant Avtar Singh s/o Sarwan Singh r/o Village Kalewal Lallian, Police Station Garhshankar, District Hoshiarpur, in which he stated that he is an agriculturist by avocation and is member of the village Gram Panchayat; that on 12.8.2010 at about 1.30/2.00 P.M., while he was returning home after meeting his relatives for two days, he observed that accused Om Parkash alongwith Rachhpal Singh were cutting trees from the Shamlat land situated in front of their house; that when complainant enquired from them as to whether they had obtained permission from the Gram Panchayat for cutting of trees, then both of them got infuriated and questioned his locus standi to say so; that Om Parkash having a sabbal (crow bar) gave a blow on the left arm of the complainant; that the complainant fell down, then Om Parkash and Rachhpal Singh gave him kick blows; that the complainant raised an alarm, which attracted Lakhbir Singh and Tarlochan Singh of the village, who intervened and saved him from the accused; that Charanjit Kaur, Sarpanch and a number of other persons also came there. Then the accused left the spot alongwith their respective weapons. The complainant injured was taken to the Civil Hospital, where he was medico legally examined and medically treated. On the basis of said statement of the complainant, formal FIR was recorded and investigation in the case began. Accused were arrested in this case.

After completion of investigation and other formalities, challan against both the accused was prepared and filed in the Court of Sub Divisional Judicial Magistrate, Garhshankar.

On presentation of challan, copies of documents relied upon therein were supplied to the accused free of cost, as provided under Section 207 Cr.P.C. Then finding that charge for offences under Section 323, 324, 379 IPC read with Section 34 IPC was disclosed against the accused, they were charge sheeted accordingly, to which they pleaded not guilty and claimed trial.

During the course of its evidence, the prosecution examined as many as five witnesses i.e. PW-1 Avtar Singh – s/o Sarwan Singh - complainant, PW-2 Avtar Singh s/o Chanchal Singh, PW-3 Charanjit Kaur, PW-4 Dr. Raghbir Singh and PW-5 Nirmal Singh. Thereafter the prosecution evidence was closed by order.

Statements of accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the accused were put to them, but they refuted the same coming up with a plea that they are innocent and have been falsely involved in this case. However, the accused did not lead any evidence in defence.

After hearing arguments, the learned trial Magistrate, acquitted the accused of the charge framed against them, vide judgment dated 7.8.2014.

The complainant had preferred an appeal against the said judgment passed by the Sub Divisional Judicial Magistrate, Garhshankar, however, the said appeal was dismissed by the Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur, vide judgment dated 12.12.2014.

Thereafter, the complainant has knocked at the door of

this Court by way of filing the present revision petition, praying that the impugned judgments passed by the Courts below be set aside and the accused be convicted and sentenced as per law.

Notice of the revision petition was given. Respondent No.1 – State of Punjab put in appearance through State counsel, whereas respondents No. 2 and 3 had appeared through Mr. Madan Sandhu, Advocate.

I have heard learned counsel for the petitioner, learned State counsel and learned counsel for respondents No. 2 and 3, besides going through the record and I find that there is no merit in the revision petition. The trial Magistrate has based his conclusion of prosecution having failed to prove its charge against the accused on the following grounds:-

- 1) un-explained delay of 3 days in reporting the matter to the police, in as much as, according to the prosecution story, the incident had taken place on 12.8.2010 at about 2.00 P.M., whereas the complainant injured Avtar Singh was admitted in the Civil Hospital, Garhshankar at 4.00 P.M., which is at a distance that can be covered within 10-15 minutes, if one goes on scooter from the place of incident to the Hospital, putting a question mark over the truthfulness of the prosecution story;
- 2) failure of the complainant to prove ownership of the land from where the trees were allegedly being cut and removed by the accused, further more ownership of

the trees was also not established;

- 3) material contradictions between the statements of the prosecution witnesses on several important points;
- 4) earlier litigation on civil side being there between the parties culminating against the complainant, providing him motive to file a wrong FIR against the accused;
- 5) PW-1 Avtar Singh admitting in his cross examination that he had not informed the police/B.D.P.O. or any other concerned authority regarding accused having allegedly encroached upon the property of Gram Panchayat;
- 6) PW-1 Avtar Singh in his cross examination stating that Om Parkash had given a sabbal blow on his right arm, whereas in his statement to the police Exhibit PA, he instead stated that he had suffered injury on his left arm;
- 7) medical evidence not supporting the ocular evidence, in as much as, MLR of injured complainant showing that he had suffered injury on his right upper arm, whereas as per prosecution story, and as stated by Avtar Singh complainant, to the police, he had suffered injury on his left arm;
- 8) in the MLR reflecting the injury to be caused by sharp edged weapon, whereas sabbal is a blunt weapon;
- 9) PW-3 Charanjit Kaur stating that she had not seen the accused committing the offence; and

10) failure of the prosecution to examine Lakhbir Singh and Tarlochan Singh, alleged eye witnesses.

The judgments passed by the trial Magistrate and by Additional Sessions Judge in appeal, are well reasoned, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity in such judgments, which might have called for interference by this court, while exercising the revisional jurisdiction. Further more the revisional jurisdiction of this Court is quite limited. This Court is to interfere only when there is a glaring infirmity or illegality apparent on the face of judgment passed by the Courts below or for that matter if the judgment is perverse or contrary to the settled principles of criminal law. The impugned judgments are certainly not of that type.

Finding no merit, the revision petition is dismissed.

5.3.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned Yes / No

Whether reportable Yes / No