

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 240 of 2017 (O&M)
Date of decision : 23.3.2018

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Jaspal Singh

.....Petitioner

vs.

State of U.T., Chandigarh and others

.....Respondents

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

Present: Mr. Munish Raj, Advocate for
Mr. Navdeep Chhabra, Advocate
for the petitioner.

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H. S. Madaan, J.

CRM-2220-2017

The present revision petition has been filed belatedly by
9 days, moving an application for condonation of delay. I find
sufficient reasons to condone the delay.

Therefore, the application is accepted and the delay in
filing the revision petition stands condoned.

CRR 240-2017.

FIR No. 103 dated 20.5.2012, for offences under Sections 323, 506, 34 IPC, was registered at Police Station Sector 19, Chandigarh, on the basis of statement of complainant Jaspal Singh Kharbanda s/o Inder Singh, r/o H.No. 3070, Sector 19-D, Chandigarh, who in the statement made to the police stated that he has been residing in Kothi No. 3070, Sector 19-D, Chandigarh for the last 17-18 years as tenant under Puran Singh accused, the latter has been in occupation of ground floor of the house. According to the complainant, he had been depositing the rent in the account of Bhavneet Singh s/o Puran Singh and on 18.5.2012, he had returned from his office and the time was 2 o'clock, when Puran Singh, his brother Bittu, his son Bhavneet and son-in-law Gurcharan Singh, were found to be there. The complainant went to the Ist floor of the house which has been in his occupation. He was followed by all those four persons. According to the complainant he served water to them and started having a chat with them. Thereafter, Gurcharan Singh started arguing with the complainant and his father, using filthy language, Puran Singh also used foul language with them and then Puran Singh caught hold of the complainant from his hand, whereas Bittu pushed father of the complainant, then all the assailants started beating up the complainant, as a result of which he received injuries. Puran Singh had caught hold of the complainant from his hair after removing his turban, when the complainant raised an alarm to call the police, then the assailants gave him beatings. While leaving the spot

the assailants threatened him with dire consequences, after asking him to vacate the house, otherwise they would kill him. Thereafter the complainant called the police. The police arrived there and took the injured to Government Hospital, Sector 16, Chandigarh, where he was treated. According to the complainant he could not make statement to the police earlier, as a result of severe injuries and got his statement recorded on 20.5.2012 only.

After registration of formal FIR, the matter was investigated. The accused were arrested in this case.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court, 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, 506, 34 IPC was disclosed against the accused, charge sheeted them accordingly, to which they pleaded not guilty and claimed trial.

During the course of prosecution evidence, the prosecution examined in as much as five witnesses i.e. PW-1 Vineet Sayal, Junior Assistant, from the office Estate Office, U.T. Chandigarh, who produced the record pertaining to H.No. 3070, Sector 19-D, Chandigarh, stating that the said house stands in the name of Puran Singh; PW-2 Jaspal Singh – complainant provided eye witness account of the incident, deposing as per prosecution story, proving the statement made by him to the police as Exhibit P-2; PW-3 Inderjit Singh, father of the complainant also provided the ocular

version, deposing as per the prosecution story; PW-4 Dr. Ashish Chaudhary, who had medico legally examined the complainant-injured Jaspal Singh deposed in that regard, stating that the patient had received injuries including contusion on the forehead and he was advised NCCT head and surgery opinion; reddish abrasion on alar of nose, fresh bleed was present and he was advised X-ray nasal bone and surgery opinion, swelling over left upper eye lid and he was advised eye consultation; c/o pain in right side of face and contusion over the right eye and was advised eye consultation and surgery opinion. He further deposed that his opinion as per NCCT report No. 1271 by Dr. Karam Singh, M.O. Radiology, no intra-cranial injury seen and no bone injury seen, hence, injury No.1 declared simple in nature. He further deposed that as per X-ray report No. 7975 by Dr. Karam Singh, M.O. Radiology, X-ray nasal bone shows no bony injury, hence, injury No.2 declared simple in nature. Patient was advised for followup for vision and fungus checkup but he did not compel, so far hence final opinion regarding the injury No. 3 and 5 cannot be given. He further proved his report Exhibit PW4/1.

PW-5 ASI Vijay Kumar, the Investigating Officer, of this case deposed regarding the investigation conducted by him proving various documents. Since the prosecution failed to conclude its evidence despite affording several opportunities, the same was closed by order of the Court.

Statements of the accused were recorded under Section 313 Cr.P.C. and all the incriminating evidence circumstances appearing against them was put to them, which they denied and

pleaded innocence and false implication. 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.

This judgment was challenged by the complainant by way of filing an appeal, which was marked to Additional Sessions Judge, Chandigarh, who dismissed the same, giving reasons, which for ready reference are being reproduced below:-

11. There were improvements in the deposition of PW-2 in his statement recorded in Court. During his cross examination, he stated that family of Pritpal is residing with him. Pritpal is a shopkeeper and his wife is a housewife. There was no dispute with Puran Singh prior to 18.5.2012. He admitted that Puran Singh had requested him several times for vacating the premises in his occupation. He had first gone to Police Station and thereafter, the police official took him to the hospital. He had gone to the hospital in his own car. He was driving the car. He reached the hospital at around 3.30 P.M. He was medically examined and admitted in the hospital immediately. He does not remember whether any signatures were taken on any paper by the doctor or not. After seeing his statement Exhibit P-2, he replied that there is no mention in the same that Gurcharan Singh had caught hold of him. There is no mention that fist blows, kick blows and

kada was used as mentioned by him in his examination-in-chief. There is no mention in the same that he had received injuries on his face and that accused ran away from the spot. No neighbourer reached the spot on 18.5.2012 voluntarily stated that it was noon time. He had informed the police officials about what had transpired on 18.5.2012. His father was all right but he does not know whether he gave any statement to the police on 18.5.2012 Exhibit DA is copy of the suit filed by him. He was never joined in the investigation by police after 20.5.2012 and no other work or investigation was done on that day.

12.The evidence of PW-2 and PW-3 ought not to be relied when there was evidence to show that there was enmity between the parties. The court has to consider carefully and consciously the evidence of witnesses, who may have had enmity with the accused. There is delay in making the statement by the complainant. When there is delay in lodging the FIR and no impeccable positive evidence of complicity of accused in the commission of crime, the delay in lodging the FIR is significant. Even the medical evidence do not support the case of the complainant. The matter does not rest here, father of the complainant was free to go to the police station to lodge the complaint regarding the occurrence but no effort was made by the father of

the complainant. Even the request made by the IO to the doctor for recording the statement of the injured was allowed. Doctor opined that the injured was fit to make the statement vide Exhibit PW-5/1. The delay in lodging the FIR has not been explained which is fatal to the case of prosecution.

13.Hence keeping in view the discussion above, it is held that there is no merit in the appeal. Accordingly, the impugned judgment is upheld and appeal is dismissed. Record be returned and file be consigned to the record room.

Still being not satisfied, the complainant has filed the present revision petition.

I have heard learned counsel for the petitioner, besides going through the record.

The scope of revisional jurisdiction is quite limited. The judgments passed by the courts below are well reasoned based upon proper appraisal and appreciation of evidence and correct interpretation of law. The impugned judgments do not suffer from any infirmity much less on the face of the same.

There are concurrent findings recorded by the courts below that the prosecution has failed to prove its charge against the accused, resulting in acquittal of the accused. I do not see any reason to interfere with such judgments. Therefore, the revision petition is

found to be without any merit. Dismissed.

23.3.2018

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(H.S. Madaan)
Judge

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No