

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

247

CRR-651-2019 (O & M)
Date of Decision:14.05.2019

Paramjit Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Tarunveer Vashist, Advocate
for the petitioner.

MANOJ BAJAJ, J.

Convict-Paramjit Singh has filed this revision petition to challenge the Appellate Court judgment dated 06.10.2017 passed by the learned Additional Sessions Judge, Kurukshetra, whereby it has upheld the conviction recorded by the trial Court vide judgment dated 08.02.2017, however, the order of sentence dated 13.02.2017 was modified by extending the concession of probation to the petitioner.

Revision petition carries a delay of 358 days and for that a separate CRM-9324-2019 has been filed for condonation of delay in filing the revision petition.

The prosecution of the petitioner arises from a complaint case No.57 of 2015 brought by Lakhwinder Singh (complainant) against 4 accused persons namely Tarlok Singh, Paramjit Singh, Chhajju and Gurpreet Singh for the offences punishable under Sections 323, 325, 447 and 34 IPC registered at Police Station Pehowa, District Kurukshetra.

As per the complainant's version, the accused persons had made

a water khaal (water course), by encroaching upon the land of complainant which was detected by way of demarcation through Halka Patwari. When complainant requested for removal of encroachment, they refused and the dispute arose between the parties. On 24.06.2010, at around 5 PM, complainant and his brother Narinder Singh were working in their fields, when accused having lathis and dandas in their hands forcibly entered into the fields and exhorted to teach a lesson for getting the land demarcated. It was narrated that all the accused persons caused injuries to the complainant and his brother Narinder Singh. Upon raising an alarm, the father of the complainant reached at the spot and accused also pushed him away. It was mentioned that the complainant acted in self-defence, thereby compelling the accused to leave the spot. Thereafter the complainant and injured were examined by the doctors and the matter was reported to the police. However, no action was taken against the accused persons rather the accused persons got a false case registered against the complainant, his brother and father vide FIR No. 179 dated 25.06.2010 under Sections 323, 324, 325 read with Section 34 IPC.

After examining the pre-summoning evidence, the trial Court proceeded to summon the accused and after appearance of accused, pre-charge evidence was adduced by the complainant. In all, complainant examined 6 witnesses and documentary evidence was also adduced to prove the injuries suffered by the complainant/victims. The accused were charge-sheeted by the trial Court for the offences punishable under Sections 323, 325 read with Section 34 IPC, who claimed trial.

Thereafter, the accused chose to again cross-examine two prosecution witnesses namely Lakhwinder Singh and Narinder Singh (CW-

3 and CW-6) and on 02.09.2016, the evidence of the complainant was closed.

In the statement under Section 313 Cr.P.C., the accused had pleaded innocence and claimed false implication. However, in defence no evidence was adduced.

The trial Court after examining the material on record, i.e. the demarcation report as well as the MLRs of the injured proceeded to hold the accused persons guilty and convicted them for the offences punishable under Section 323 read with Section 34 IPC and Section 325 read with Section 34 IPC and sentenced them to undergo a simple imprisonment for a maximum period of three years each.

Dissatisfied with the judgment of the trial Court, the accused persons filed an appeal before the Appellate Court bearing No.CIS Criminal Appeal No.74 of 2017. During the course of hearing before the Appellate Court, learned counsel appearing on behalf of the appellants/convicts, at the very outset, did not press the conviction part as recorded by the trial Court, however, a prayer was made for leniency in sentence part. The Appellate Court accepted the said prayer and extended the concession of probation.

The present revision petition has been filed to challenge the judgment of Appellate Court on the ground that the evidence on record was not sufficient to hold the petitioners guilty. However, learned counsel for the petitioner is unable to justify the delay of 358 days in preferring the revision petition to challenge the judgment of the Appellate Court. Learned counsel does not dispute the fact that challenge of the judgment of conviction before the Appellate Court was given up and the prayer was confined for modification of the sentence part alone.

After hearing of learned counsel for the petitioner, this Court finds that the occurrence was admitted by the accused as FIR No.179 dated 25.06.2010 also stood registered at their instance. The complainant had also mentioned in his complaint that he acted in self-defence. Since the occurrence was admitted by both the parties and both sides suffered injuries, therefore, both the parties were convicted and sentenced by the trial Court. The learned Appellate Court proceeded to extend the concession of probation as the prayer was confined for modification of the sentence part alone. The relevant portion i.e. para 4 of the Appellate Court's judgment is reproduced as under:-

“Ld. Counsel for the appellants/convicts, at the very out-set did not assail the impugned judgment holding the appellants/convicts guilty for commission of offence punishable under Sections 323/325/34 of the Indian Penal Code, 1860”

The Appellate Court as well as the trial Court have correctly appreciated the evidence particularly when the occurrence was admitted by the convict and the concession of probation was extended in view of the specific pleading contained in the grounds of appeal as well as the stand adopted before the Appellate Court. Therefore, this Court does not find any reason either to condone the delay or to interfere with the impugned judgment passed by the Appellate Court.

The present revision petition is dismissed.

14.05.2019

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(MANOJ BAJAJ)
JUDGE

Whether Speaking/Reasoned: Yes/No
Whether Reportable : Yes/No