

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

205

CRR-2819-2008 (O&M)

DATE OF DECISION: 13.05.2019

HANS RAJ RANA

... Petitioner(s)

Versus

JAI SINGH AND ORS.

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Rahul Vats, Advocate
for the petitioner.

Mr. D.R. Singla, DAG, Haryana.

Mr. Balkar Singh, Advocate for respondents No.3, 4 and 6.

Revision petition qua respondents No.1, 2, 5 and 7 to 10
already dismissed vide order dated 29.07.2009.

ANUPINDER SINGH GREWAL, J. (ORAL)

This petition is directed against the judgment of the trial Court dated 13.08.2008 whereby the respondents had been acquitted in FIR No.54 dated 26.04.1999 under Sections 148, 149, 323, 324, 452 and 506 IPC, registered at Police Station Kharkhoda, District Sonipat.

Though the present revision petition was initially filed against the acquittal of all the respondents, however, the same was dismissed qua respondents No.1, 2, 5 and 7 to 10 by order dated 29.07.2009.

The case of the prosecution is that on 26.04.1999 when ASI Anoop Singh was patrolling, he learnt about the alleged incident and that

all the injured have been taken to CHC Kharkhoda and after obtaining certificate of fitness, he recorded the statement of Hansraj complainant. It was stated by the complainant that about 2 years ago, son of his brother was killed by his neighbour Jai Singh and his family regarding which an FIR was registered against them and the investigation was going on. Due to this grudge, while he was sitting on the roof of the house of his brother Subhash at 07:30 p.m., Narender, Dharmender, Jogender and Shyam sons of Jai Singh, Raj wife of Jagati, Jai Singh son of Summer, Phool son of Purshotam, Poonam wife of Phool and the wife of Dharmender and two outsiders, son of the sister of Jai Singh, Isho came there along with '*lathi*', '*jelley*' and '*kulhari*'. Thereafter, Narender carrying '*kulhari*' and Phool carrying '*Jelley*' inflicted injuries on the head of Subhash and on the left part of his back. Dharmender had also inflicted injuries on his head on which they raised hue and cry whereupon his wife Krishna and his brother Ved Parkash came there. They were also attacked by the respondents No.1 to 10 (accused). They raised alarm and then Sudesh wife of Subhash and Kanta wife of Ved Parkash came there and on seeing them, the respondents No.1 to 10 (accused) fled away from the spot. Thereafter, he took Sudesh and other injured to CHC, Kharkhoda but doctor referred Ved Parkash to PGIMS, Rohtak.

In order to prove its case, the prosecution has examined nine witnesses, namely, Mam Chand ASI as PW-1, Hans Raj as PW-2, Subhash as PW-3, Krishna as PW-4, ASI Mohinder Singh as PW-5, Ved Parkash as PW-6, Kanta as PW-7, Inspector Ramphal as PW-8 and

Dr.Mejpal as PW-9. Thereafter, evidence of the prosecution was closed by the order of the trial Court on 05.12.2005.

Statements of the respondents No.1 to 10 (accused) under Section 313 Cr.P.C. were recorded to which they pleaded not guilty and opted to lead evidence and in defence, they tendered the document i.e. calendra under Section 107/51 Cr.P.C. dated 15.12.1997.

Learned counsel for the petitioner contended that as the FIR was lodged promptly and cogent evidence in support of the prosecution case had been led, there was no occasion for the trial Court to acquit the respondents No.1 to 10 (accused).

Learned counsel for respondents No.3, 4 and 6, however, contends that there were several infirmities in the prosecution evidence and, therefore, the order of acquittal would not warrant any interference.

I have heard learned counsel for the parties.

It is manifest from the judgment of the trial Court that although respondents No.1 to 10 (accused) were alleged to be carrying weapons including '*jelley*', '*lathi*' and '*kulhari*' and had caused injuries on the head and other parts of the body of the complainant and other injured, but the MLR of the complainant indicated that he only had abrasions and had complained about pain in his body. With regard to the abrasions, the doctor has also opined that the wounds could be suffered by the injured had he fallen on a hard surface.

Furthermore, there is divergence with regard to motive as in the complaint, it is mentioned that the accused had attacked the complainant and injured as the complainant had implicated them for the

murder of son of Ved Parkash, but while appearing as PW-2, PW-3 and PW-7, who were the injured in the occurrence, had deposed before the Court that the fight took place due to construction of a wall.

Additionally, the Investigating Officer had not been examined to prove the factum of report under Section 173 Cr.P.C. The injuries, which were suffered, were stated to be simple in nature. It is well settled that interference in a case of acquittal would be called for only where the finding is perverse or it has caused manifest injustice. The presumption of innocence is reinforced by an order of acquittal. Even if, another view is possible on the evidence on record, the Court would not interfere with the judgment of acquittal.

Consequently, while affirming the judgment of the trial Court, the revision petition, being devoid of any merit, stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

13.05.2019.

SwarnjitS

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