

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

CRR-1511-2009 (O&M)
Date of decision : 07.11.2019

Ram Pal and another

...Petitioners

Versus

Bir Bhan and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Rakesh Gupta, Advocate for the petitioners.

Mr. Pawan Kumar Hooda, Advocate
for respondent Nos.1 to 11.

ANIL KSHETARPAL, J.

This criminal revision has been filed against judgment of acquittal passed by Sessions Judge, Jind in Sessions Case No.4 of 03.04.2007/13.02.2008 arising from FIR No.116 dated 11.05.2006, registered under Sections 148, 307, 323, 324, 325, 447 and 506 read with Section 149 of the Indian Penal Code and 25 of the Arms Act, 1959, at Police Station Sadar Narwana (Jind).

Facts as noticed by the learned Court of Sessions, correctness whereof is not disputed, are extracted as under:-

“Raj Kumar son of Jailu Ram, Harijan by Caste (complainant) is a resident of village Kaloda Kalan. On 11.5.2006, he alongwith Ram Pal son of Ram Singh, Satyavan son Jodha Ram and Kulwant son of Satyavan, all

residents of village Kaloda Kalan had reached their 'new field' for repairing the watercourse therein. At about 9.30 AM, Bir Bhan (now accused) son of Ram Lal, Parmod (now accused) son of Bir Bhan, Karambir (now accused) son of Ram Lal, all Jat by Caste, residents of village Ismailpur, son-in-law of accused Bir Bhan (whose name was not known to the complainant but he was resident of village Samain) and 30 to 35 more persons armed with lathis, gandasas, jellies and bhalas, had come there in three TATA Sumo vehicles and a tractor.

Raising a "lalkara" to teach a lesson to Raj Kumar and others for not releasing possession of his land, accused Bir Bhan, who was armed with his licensed gun, had fired shots at Raj Kumar and his companions with an intention to kill them. Accused Parmod inflicted a gandasa blow to Kulwant, injuring right leg above the knee. He had also inflicted second blow of gandasa to Kulwant, which had hit his chest towards left side. Accused Karambir had caused a gandasa blow to Satvavan on his left side below the chest. Thereafter, son-in-law of accused Bir Bhan had given lathi blows to Raj Kumar on his hands, feet and head. On receipt of lathi blow on his head Raj Kumar had fallen on the ground.

Complainant Raj Kumar and his companions had made safety calls, which had attracted Smt. Santro wife of Ishwar, Smt. Kamla wife of Begh Raj, Smt. Bala wife of Bishna, Smt. Daya wife of Chand Ram, Smt. Pataso wife of Billu, Smt. Murti wife of Subhash and Smt. Roshni wife of Krishan, all Harijans and residents of village Kaloda Kalan, who had come to the spot to the rescue the complainant and his companions. When Smt. Santro etc. came forward to rescue the complainant etc., the assailants had also caused injuries to them with their respective weapons.

The noise of fight had attracted many persons, who were working in the nearby fields and on seeing them coming, accused Bir Bhan etc. had run away from the spot. Firing gunshots, accused Bir Bhan was proclaiming to the complainant and others that they were saved on that day but finding an appropriate opportunity, they were to be killed. Thereafter, Bir Bhan etc. with their weapons had fled away in their respective vehicles. Accused Bir Bhan etc. had caused injuries to the complainant and his companions in order to take illegal and forcible possession of the land.

After making arrangement of a vehicle, Bhalke Ram son of Patola, a resident of village Kaloda Kalan had shifted the injured persons to General Hospital, Narwana, where complainant Raj Kumar, Ram Pal, Satyavan, Smt. Murti, Smt. Roshni and Kulwant were got admitted as indoor patients, but Smt. Santro, Smt. Kamla, Smt. Pataso and Smt. Daya were discharged after giving first-aid.

On this statement (Ex PX) of complainant Raj Kumar, the present case was registered. The police had swung into action. The spot was inspected. The accused were arrested. Weapons of offence were recovered from them. Medical record of the injured was collected. After completion of investigations, challan was presented in the court against the accused.”

This Court has heard learned counsel for the parties at length and with their able assistance gone through the judgment passed by the learned Court of Sessions and the record.

On the one hand, learned counsel for the petitioners has contended that the judgment passed by the learned Court of Sessions is result of perversity and, therefore, liable to be set aside. On the other hand, learned counsel for the respondent-accused has defended the judgment

passed.

Interference in the judgment of acquittal is possible only if it is established on the file that it suffers from perversity or material illegality or irregularity. Once, a reasonable and probable conclusion has been drawn, judgment of acquittal cannot be interfered with. Wherever, two views are possible and one view has been taken, still judgment of acquittal cannot be interfered with. With this broader rules, let me examine the facts of the case vis-a-vis the evidence led and reasons recorded by the Court of Sessions. It is noticed that Raj Kumar-first informant-injured has made lots of improvements and contradictions in his evidence when compared with the first version in complaint Ex.PX. These dichotomies have been noticed by the Court of Sessions in para 32 of the judgment, correctness whereof could not be successfully challenged by the learned counsel for the petitioners, although he made sincere attempt. Still further, Raj Kumar-PW7 has himself considerably diluted the case set up by the prosecution which has to be considered coupled with admissions of PW7. Further, Court of Sessions has also examined the defence version which has emerged from the suggestions given to the first informant in his cross-examination, though denied by him. It has come in evidence that first informant was a member of aggressor party and accused was ploughing his fields, when the incident took place. Further, the Court of Sessions has found that case of the prosecution is neither probable nor convincing.

Still further, genuineness of the case of the prosecution has also been found to be suspicious for the reasons stated in para 57 of the judgment passed by Court of Sessions. Court of Sessions has also noticed

that there are gaps and missing links in the case of the prosecution. Delay in lodging the FIR has not been successfully explained.

Keeping in view the detailed reasons recorded by the learned Court of Sessions, this Court does not find any interference in the criminal revision petition, particularly when Raj Kumar-PW7 has admitted in his testimony that they are also facing complaint filed by the accused-Bir Bhan in which allegations are that they had set a place the kotha/house situated on the abovesaid land. Hence, present criminal revision petition is dismissed.

All the pending miscellaneous applications, if any, are disposed of, in view of the abovesaid judgment.

07.11.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No