

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-5348 of 2017 (O&M)

Date of decision: 21.05.2019

Kesar Singh

..... Petitioner

Versus

Bhupinder Singh and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Ms. Manpreet Ghuman, Advocate
for the petitioner.

Mr. Jasdeep Singh, Advocate
for the respondents.

ANIL KSHETARPAL, J. (ORAL)

After hearing learned counsel for the parties, it has been noticed that the learned Additional Sessions Judge, Patiala while dismissing the revision petition has recorded as under:-

“Although complainant appeared in order to establish those allegations and he has also examined two witnesses i.e. Raghbir Singh and Nardev Singh in support of his stand so taken in the complaint, but such evidence on record is not enough to say that there are sufficient ground to proceed against accused No.3 and 4 for the offences so mentioned in the complaint. Perusal of testimony of these witnesses reveals that they had uttered contradictory to that of version of complaint, regarding involvement of accused Head Constable Baljit Singh and SHO Hari Chand. Firstly, the name of accused No.4 has been mentioned as Daljit Singh Head Constable in the title of the petition, while in complaint, his name has been mentioned as Baljit Singh Head Constable. Secondly, these witnesses at the time of trial uttered that accused No.3 and 4 came at spot and

they started abusing complainant instead of resolving the matter and they had taken off turban of complainant and then they threw it on the feet of respectable persons. Then they gave beatings to complainant and he was taken inside the Police Station. Such version is contradictory to the version of complaint so submitted earlier. In the presence of such testimony, it cannot be said that there are sufficient grounds to proceed against accused No.3 and 4 and therefore, they were rightly not summoned by ld. Trial court to face such offences in trial. Undoubtedly, ld. Trial court has wrongly passed order regarding discharge of these two accused in the case but that part of order has no effect on the merits of the case as these accused were never summoned by ld. Trial court in the case for any of the offences. Thus there is no merit in the revision petition as discussed above and accordingly present revision petition is dismissed. Revision file be consigned to record room. Both the parties are directed to appear before Ld. Trial court on 30.11.2016 for further proceedings. Revision file be consigned to record room. While record of ld. trial court along with a copy of this order be sent to learned Trial Court forthwith for proceeding further in the matter.”

Learned counsel for the respondents failed to draw attention of the Court to the evidence which is contradictory to that of complainant.

Accordingly, the judgment dated 17.11.2016 is set aside. The case is remitted back to the Court of learned Additional Sessions Judge, Patiala to re-decide the revision petition.

The petition is disposed of.

Parties through their counsel are directed to appear before the First Appellate Court on 03.07.2019.

21.05.2019

Dinesh Bansal

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No