

CRR-2685 of 2016

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

CRR-2685 of 2016
Date of Decision: 14.03.2019

Kashmir Chand

....Petitioner

Versus

The State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. M.S. Rai, Advocate, for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, petitioner-complainant has laid challenge to judgment of the Appellate Court dated 04.04.2016, affirming judgment of Trial Court dated 23.10.2015 acquitting respondents No.2 to 5, who are none else, but his real brothers and nephews, in case FIR NO.135 dated 29.12.2013 registered under Sections 379, 427, 447, 34 IPC at Police Station Arniwala, District Fazilka.

Briefly, on 14.12.2013, petitioner received telephonic information from one Ashok Kumar about burning/damage to his crop by private respondents. Consequently, petitioner along with his brother Hans Raj went to his fields and found their crop damaged by spraying weedicide. He had suspicion over his real brother respondent No.4 Puran Chand for causing damage to their crop, in connivance with remaining private respondents.

On these broad allegations, FIR aforesaid was registered.

However, after holding trial, private respondents were acquitted by the

Trial Court vide judgment dated 23.10.2015.

CRR-2685 of 2016

Being aggrieved, petitioner filed appeal, but remained unsuccessful, as his appeal too was dismissed by the Appellate Court, vide judgment dated 04.04.2016.

Learned counsel for the petitioner *inter alia* contends that both the Courts below have failed to appreciate that crop of the petitioner and his brother Hans Raj was damaged by private respondents, causing financial loss to them. Both the Courts below ought to have atleast awarded some compensation to the petitioner, while acquitting private respondents, who during investigation, in their disclosure statements have admitted their guilt. They be held guilty and convicted under Sections 379 and 447 read with Section 34 IPC.

Having given thoughtful consideration to the submissions made by learned counsel for the petitioner, this Court finds the instant revision, completely devoid of any merit, for the reasons to follow.

No question of law much less substantial has been raised in this revision.

This Court while exercising its revisional powers has very limited jurisdiction, which can only be exercised, (i) when the Courts below have acted beyond jurisdiction vested in them or (ii) have not exercised the same diligently and (iii) have exercised illegally.

Learned counsel for the petitioner has not been able to show any such infirmities in the judgments of both the Courts below.

It is pertinent to mention here that petitioner and his alleged eyewitness namely, Hans Raj turned hostile, inasmuch as petitioner as PW6 in his cross-examination testified that he did not see any of the

private respondents causing damage to his crop, nor saw them committing theft of his motor. His brother Hans Raj as PW2 also in his cross-

CRR-2685 of 2016

examination testified that he did not see any of the private respondents, causing damage to their crop and that when, he along with his brother PW6 Kashmir Singh visited the fields only small portion of crop was found damaged. They did not sustain any other loss. Further he does not know, when theft was committed, because he never saw any electric motor.

From the above deposition of petitioner and his brother Hans Raj, it is apparent that prosecution could not prove complicity of the private respondents in committing such crime.

Even otherwise their statements were hearsay on the basis of information received by them from one Ashok Kumar son of Pannu Ram, who as PW4, testified that crop of the petitioner and his brother Hans Raj had suffered damage on account of spray of some poisonous pesticide. Consequently, he had informed petitioner on his mobile phone, who along with his brother came on the spot and moved application to the police Arniwala, whereupon Agriculture Department had given a report that crop of the petitioner had burnt due to spray of some pesticide.

From the above discussion, it is evident that prosecution miserably failed to prove guilt of the private respondents to the hilt beyond any shadow of doubt.

Dismissed.

March 14, 2019
R.S.

(Ramendra Jain)
Judge

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No