

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Revision No. 3580 of 2016 (O&M)

Date of Decision: 09.09.2019

Banarsi Dass (since deceased) through L.Rs. Murari Lal and Others

... Petitioner(s)

Versus

Rama Deva and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Aditya Sanghi and Ms. Shaveta Sanghi, Advocates
for the petitioner(s).

Mr. Ashok Muthreja, Deputy Advocate
General, Haryana for respondent No.9.

Shekher Dhawan, J.

Present revision petition is against the judgment dated 14.03.2016 passed by the learned Additional Sessions Judge, Rohtak, whereby criminal appeal bearing No. 116 dated 08.04.2015, preferred by the petitioner, was dismissed and the criminal appeal bearing No. 117 dated 08.04.2015, preferred by respondents No.1 to 8 was accepted and they were acquitted of the charges.

Prior to that, the learned Chief Judicial Magistrate, Rohtak, convicted respondents No.1 to 8 in a criminal complaint bearing No. 261 dated 16.08.2005/06.06.2012, vide judgment dated 28.01.2014 for the offences under Sections 323, 342 & 427 read with Section 149 IPC.

However, vide order dated 06.02.2014, passed by the learned trial Judge,

Respondents No.1 to 8 were ordered to be released on probation for a period

of six months.

While arguing on the point, learned counsel for the petitioner contended that the learned Judicial Magistrate Ist Class has rightly convicted the accused persons and the learned first Appellate Court misread the evidence and on that basis, acquitted them. The said judgment of acceptance of appeal is liable to be set aside.

Learned counsel for the petitioner contended that though the learned trial Judge has rightly held respondents No.1 to 8 guilty and convicted them under Sections 323, 342 & 427 read with Section 149 IPC, but without considering their character and antecedents, ordered to release them on probation, whereas they should have been ordered to be sentenced substantially by sending them behind the bar.

Having considered the submissions made by learned counsel for the parties and appraisal of the record of the case, this Court is of the considered view that the learned trial Judge had ordered to release the accused persons on probation and the learned first Appellate Court, while considering the entire evidence available on file, accepted the appeal and acquitted the accused persons. While doing so, the learned first Appellate Court had scrutinized the testimony of CW.2-Om Parkash and complainant of the case and found that the statements of both these material witnesses were contradictory and conflicting on the material points and as such, the same are not reliable. The learned first Appellate Court has also considered the fact that complainant Banarsi Dass as well as witness Om Parkash were claiming themselves to be occupiers of House No. 339/35. Om Parkash

stated that the above said house was never ransacked and the plot had a

temple, which was constructed in the year 2000, whereas complainant Banarsi Dass claimed his possession over the said plot since 1993, which he had purchased in the year 1998. The learned first Appellate Court also considered the factual position that complainant-Banarsi Dass was in the habit of making complaints against the appellants and other persons on one pretext or the other. On 18.10.2007, complainant Banarsi Dass had moved a complaint that on 19.08.2001, Ram Deva, Rajesh and others had entered his plot but that complaint was also dismissed on 16.07.2013 vide Ex.DA. Another complaint was filed regarding inflicting of injuries and the learned first Appellate Court has rightly observed that the learned trial Judge had completely ignored this fact and as such, accepted the appeal. Thus, there are no grounds for interference of this Court by way of present revision petition. Resultantly, present revision petition stands dismissed.

(Shekher Dhawan)
Judge

September 09, 2019
“DK”

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