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

CRR-4275-2017 [O&M]
Date of Decision:- May 21, 2019

Nazar Singh Petitioner

Versus

Sukhwinder Singh and others Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Aditya Jain, Advocate and
Mr. Junaid Singh, Advocate
for the petitioner.

SHEKHER DHAWAN, J.

CRM-37244-2017

Prayer made in the application is for condonation of delay of
54 days in filing the revision petition.

In view of the grounds mentioned in the application, delay of
54 days in filing the revision petition is condoned.

CRM stands disposed of.

CRR-4275-2017

Present revision petition is directed against the judgment of
acquittal dated 02.03.2016 recorded by Sub Divisional Judicial Magistrate,

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Zira whereby accused persons, namely, Sukhwinder Singh, Balwinder Singh and Baldev Singh were acquitted in case bearing F.I.R. No.34 dated 04.04.2010, under Sections 379 and 427 of IPC, registered at Police Station Sadar, Ferozepur, Tehsil and District Ferozepur and challenge is also to the judgment dated 24.05.2017 passed by learned Additional Sessions Judge, Ferozepur, vide which the appeal preferred against the above said judgment of acquittal, was dismissed.

2. Facts relevant for the purpose of decision of revision petition; that the petitioner had filed complaint before the police to the effect that he was in cultivating possession of 3 acres of land at village Mano Chahal, Basti Khushal Singh. Out of that land, there was a dispute with Banta Singh, Baldev Singh regarding one acre of land and the matter is pending before learned Additional Sessions Judge, Ferozepur titled as 'Nazar Singh vs. Banta Singh and Baldev Singh in which stay order has been granted and the petitioner was in cultivating possession of land. However, on the intervening night of 13/14.12.2009 at about 1:00 a.m., above named accused persons were cultivating the above said three acres land belonging to the complainant with an intention of taking forcible possession of the land and because of that complainant suffered loss of Rs.90,000/- and accused persons also disobeyed the stay order passed by the Court.

3. On the basis of complaint, First Information Report was registered. The matter was investigated and after completion of investigation, challan was presented before the Court for trial.

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4. During the trial, learned Magistrate completed various proceedings of trial, including framing of charge against the accused persons, recording of statement of prosecution witnesses and examining the accused under Section 313 Cr.P.C., and after considering the prosecution evidence and defence version acquitted the accused persons as there was no prosecution evidence to hold the accused persons guilty.

5. Being dissatisfied with the judgment of acquittal, the petitioner preferred the appeal before Court of Sessions and that appeal was also dismissed and as such, the present petition before this Court.

6. Learned counsel for the petitioner contended that both the Courts below have not considered the material evidence available on the file which resulted into miscarriage of justice and misappreciation of the evidence available on the file, so the present revision petition be accepted.

7. Having considered the submissions made by learned counsel for the petitioner and appraisal of record, this Court is of the considered view that both the Courts below have already appreciated the evidence available on the file in its perspective manner. Practically, there was no evidence against the accused persons and the material facts were admitted by the prosecution witnesses to be against the first version by way of complaint. Complainant-Nazar Singh who appeared as PW2 admitted in his cross-examination that the alleged motor was owned by Baldev Singh, thereafter, he had purchased electricity connection from said Baldev Singh. However, as per record the same electricity connection was given to the

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accused persons and complainant's version is falsified on that account. PW3-Gurjant Singh admitted that there was no litigation with the accused persons. PW5-Gurinderjeet Singh failed to identify the accused persons present in the Court, and facing trial and also deposed to the extent that accused persons were not known to him earlier. Even their names were disclosed to him by complainant-Nazar Singh. He had not seen any document of the land which was cultivated by the accused persons. Sub Inspector Satnam Singh (PW1) has also admitted in his statement that he had not taken into possession any wheat grain or chaff of wheat from either of the accused.

8. In light of the above prosecution evidence, practically there was nothing against the accused persons and defence version was plea of denial. As such, learned Magistrate rightly acquitted the accused persons and learned Additional Sessions Judge, dismissed the appeal as there was no supporting prosecution evidence available on the file and there is no merit in the present revision petition and same stands dismissed.

May 21, 2019
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(SHEKHER DHAWAN)
JUDGE

Whether Speaking/Reasoned : Yes

Whether Reportable : Yes