

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-1467-2018 (O&M)

Date of decision: 06.02.2019

Sarabjit Singh

..... Petitioner

Versus

Chhinderpal Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Arvind Kashyap, Advocate for the petitioner.

RAMENDRA JAIN, J. (ORAL)

Through this revision, complainant-petitioner has laid challenge to the concurrent findings of both the Courts below rendered vide judgments dated 09.01.2018 and 21.04.2016, respectively, acquitting the respondents.

Briefly, father of complainant and respondents No. 1 and 2, namely; Chhinderpal Singh and Bhola Singh, are co-sharers in the joint holding without any specific order of partition of the revenue authorities with regard specific portion amongst them. According to the petitioner, in the intervening night of 20/21.06.2014, the respondents in furtherance of their common object forming an un-lawful assembly, armed with deadly weapons trespassed in the exclusive portion of petitioner to take its forcible possession, damaged the water channel and intimidated him with dire consequences.

On these broad allegations, the respondents were booked in case FIR No. 42 dated 21.06.2014, under Sections 447, 430, 427, 506,

511, 148 and 149 IPC, Police Station Balinwali. After holding trial the respondents were acquitted by the trial Court vide judgment dated 21.01.2016 (Annexure P-2).

Being aggrieved, the petitioner approached the Ist Appellate Court, but remained un-successful as his appeal too was dismissed vide judgment dated 09.01.2018.

Learned counsel *inter alia* contends that along with the appeal, the petitioner had moved application for leading additional evidence before the Ist Appellate Court, for producing copy of civil suit filed by respondent No. 1 against the petitioner, claiming exclusive possession of the land in question, which was declined. Be that as it may, the fact remains that respondent No. 1 had also claimed his exclusive possession over some portion of the land in the joint holding which proves the assertion of petitioner that he was also in possession of some exclusive portion of joint holding in which the respondents have trespassed and damaged water channel illegally. Both the Courts below have failed to appreciate that the police during investigation found respondents guilty for the alleged offence of trespassing and demolishing water channel. Specific evidence was led by the petitioner before the trial Court to the above-stated fact. However, both the Courts below ignoring the same illegally and wrongly acquitted the respondents. Tractor used in the alleged commission of crime was also recovered from the respondent which also corroborated the prosecution's case. Therefore, the respondents are liable to be convicted.

Having given thoughtful consideration to the submission of

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.

In revision, this Court has very limited power, which can be exercised only, (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. After going through the judgments of both the Courts below, this Court does not find any such infirmity, inasmuch as, they are well-reasoned being based on appreciation of evidence. Therefore, the same are not required to be interfered with.

The submissions raised before this Court by learned counsel for the petitioner requires to appreciation of evidence which exercise has already been done by both the Courts below. Therefore, re-appreciation of evidence for the third time by this Court would simply be wastage of precious time of this Court and repetition.

The petitioner did not prove any document of partition in support of his assertion that he was in exclusive possession of some portion of the joint holding. In the absence of specific partition amongst the parties by the revenue authorities or otherwise, as per settled proposition of law every co-sharer has interest in every inch of joint holding. Admittedly, as on date joint holding in between the petitioner and respondents No. 1 and 2 or his father and respondents No. 1 and 2 has not been partitioned by metes and bounds. The petitioner and respondents may be owning some specific portion as per their

convenience, but this fact in itself cannot be termed that the petitioner was having exclusive possession over some portion of the joint holding in exclusion to the other co-sharers in which respondents have allegedly trespassed.

In view of discussion made above, the instant revision being meritless is dismissed.

February 06, 2019
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No