

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-2384-2018

Date of Decision:08.05.2019

Dalip Singh

...Petitioner

Versus

State of Haryana and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.D.S.Virk, Advocate for the petitioner.
Mr.Sanjay Kumar Saini, AAG, Haryana.

ANIL KSHETARPAL, J.

The present criminal revision petition is directed against the judgment dated 27.02.2018 passed by the learned Additional Sessions Judge, Sirsa, whereby the learned first appellate court has accepted the appeal of Santosh Kumar and Ram Sagar (respondents No.2 and 3 herein). Although, the appeal qua Shayar Singh (respondent No.1 herein) was dismissed but his sentence was reduced from three years to two years along with fine of Rs.500/-.

The learned first appellate court has recorded following findings on appreciation of evidence:-

“Keeping in view the above discussion, there are material contractions in the statement of PW1 Dalip Singh at various stages of the case regarding the involvement of accused-appellants because prior to deposing in the Court as PW1, the complainant never named accused Devi Lal in his complaint given to the police, on the basis of which, FIR was registered. He named accused Shayar Singh, Santosh, Sagar Singh and one another person but in complaint (Ex.PW3/B)

given to the Superintendent of Police, Sirsa, he named only three accused-appellants Shayar Singh etc. and not stated even a single word about the presence of fourth person. It may be mentioned here that both the witnesses i.e. complainant Dalip Singh (PW1) and his father Madan Lal (PW2), are interested witnesses. However, it is settled proposition of law that it is not a sole criteria to throw out the entire evidence of an interested witness and such like evidence is to be scrutinized carefully. In this regard, it may be mentioned here that during investigation by the police, affidavits of some persons i.e. Bhoop Singh son of Lichhi Ram, Gurdial son of Mana Ram and Devi Ram son of Mani Ram, all residents of village Mithi Sureran, were taken by the police which are on the record alongwith cancellation report given by the police. All these persons, through their respective affidavits, have stated that “in the morning of 16.07.2008 at about 6.00 a.m. they saw that there was a quarrel in between Shayar Singh son of Telu Ram and Dalip son of Madan Lal and that both of them were having no weapons with them and that Dalip Singh had sustained no injury in the said occurrence and both of them had gone to their respective houses.”

Complainant- Dalip Singh (PW1) and his father Madan Lal (PW2) in their respective statements while appearing as PW1 and PW2, have nowhere stated that the persons who gave affidavits as mentioned above, were enimical towards them and that the affidavits filed by them were false. Meaning thereby a presumption can be drawn that a quarrel took place between only complainant Dalip Singh and Shayar Singh in the morning of 16.07.2008. Though, in the affidavits, there is nothing about any injury sustained by complainant Dalip Singh but the fact of sustaining injury No.1 by the complainant at the hands of accused Shayar Singh, has been proved by way of ocular as well as medical evidence, discussed on the record. Therefore, in the opinion of this Court, only the involvement of

accused Shayar Singh is proved beyond shadow of reasonable doubt whereas in the absence of any other visible injury as well as in view of the contradictory statements made by the complainant at different stages i.e. at the time of registration of FIR, further at the time of moving application Ex.PW3/B before the Superintendent of Police, Sirsa and in his protest petition, it creates a doubt about the presence of remaining accused at the time of occurrence and their involvement is not proved beyond shadow of reasonable doubt. Had there any independent witness to corroborate the version of the complainant, the position would have been otherwise regarding the involvement of other accused but it is not so. Moreover, it is not believable that if four persons would cause injury to one person with their respective weapons, as alleged in this case, the complainant would sustain only one injury.

So far as the contention raised on behalf of learned counsel for the accused-appellants that the alleged injury on the person of the complainant is self inflicted by friendly hands just to involve the accused-appellants falsely, is concerned, this Court is of the view that contradictory suggestions were given to the complainant during his crossexamination. At one place complainant (PW1) Dalip Singh was suggested that he had sustained injuries in an accident due to struck off their motorcycle into a camel cart and at another place he was suggested that he inflicted injuries himself. Similar was the suggestion put to PW2 Madan Lal during his cross-examination. However, PW4 Dr.Rajender Singh was suggested that possibility of injury No.1 by fall on sharp edged object, cannot be ruled out. Therefore, contradictory suggestions were put to the witnesses. Moreover, it is settled law that mere suggestions cannot take the place of proof.”

Learned counsel for the complainant-petitioner has submitted that the learned first appellate court has relied upon an affidavit of persons

i.e. residents of the village, certifying that quarrel only took place between Shayar Singh and Dalip. Hence, he submitted that such evidence could not be relied upon.

Without going into this controversy, it is not disputed that the complainant, author of the FIR, had suffered one injury with sharp edged weapon, whereas respondents No.2 and 3 herein were said to be armed with lathis. The medical evidence does not support involvement of the respondents No.2 and 3 or they having caused any injury to the injured. Hence, there is no ground to interfere in the revision petition.

In view of the above, the present criminal revision petition is dismissed.

08.05.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No