

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-3826-2015

Date of Decision:06.09.2019

Ram Mehar

...Petitioner

Versus

Yagyapal and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Rahul Vats, Advocate for the petitioner.
Mr.Anmol Malik, AAG, Haryana for respondent No.5.

ANIL KSHETARPAL, J.

Through this petition, petitioner assails validity and correctness of judgment passed by learned Additional Sessions Judge, accepting the appeal filed against judgment of conviction.

Detailed facts have already been noticed by the courts below. However, for completion of the order, certain facts are being noticed. Petitioner-Ram Mehar claims that he had exchanged some immovable property with one Mani Ram and acquired one plot comprised in Khewat No.81/77 Khatoni No.86 Khasra No. 1069(1-0). The accused persons wanted to take forcible possession thereof and when first informant-petitioner reached his plot saw the accused persons were demolishing the wall of the plot and when he objected, he was given beatings. After 10-15 minutes, Jaipal, son of the first informant and one relative Sukhbir Singh reached the spot and rescued him from the clutches of the accused persons.

Learned first appellate court has given following reasons to reverse the judgment of the Magistrate:-

1. According to first informant-petitioner, the incident took place on 21.01.2007 at 8.00 PM. In order to prove exchange, he relies upon certain documents. However, neither original of the aforesaid documents were produced nor their certified copies were produced. In any case, none of the document remotely suggest that there was any wall in existence. Mani Ram, who was the previous owner, has not been examined. Hence, offence under Section 447 IPC is not made out.

2. Still further, petitioner has tried to establish that boundary wall was constructed after purchase of the bricks from the brick-klin of Jeeta Kheri, however, receipt thereof has not been produced. The petitioner has disclosed the name of mason, who constructed the wall but when his son Jaipal appeared as PW-2 he could not tell what was the length of the wall. PW-3 Azad Singh also could not give reasonable explanation about the existence of wall over the disputed plot.

3. Ram Mehar has stated in his statement that occurrence took place on 21.1.2007 at 8.00 PM and he was followed by his son Jaipal and relative Sukhbir. However, during cross-examination, he stated that his son and relative reached after half an hour of the occurrence. Police report was made on next day. When Jaipal appeared in evidence, he has stated that he has seen accused persons slapping on the face of his father. He saved his father from the clutches of the accused persons who criminally intimidated his father. However, in cross-examination, he stated that he reached the spot after two minutes of the occurrence and he saved his father. Thus on the one hand Ram Mehar said that his son reached half an hour of the occurrence, whereas son said that he reached two minutes after the occurrence. There is no medical evidence to support that fact.

4. Prosecution even could not prove copy of application filed before the police. Prosecution has tried to introduce Azad Singh as an independent witness, however, miserably failed to prove its case. Azad Singh, while appearing in Court, has stated that he was going to irrigate his field. As on that date, his turn for fetching the water was fixed. However, PW-2 Ram Phal Singh, Revenue Clerk, Irrigation Department, has brought relevant documents which prove that the turn of water was of Chander Singh, son of Ram Sahai and not of witness Azad Singh.

In view of the aforesaid reasons recorded by the learned Additional Sessions Judge, the conclusion drawn by the court below is reasonable and probable. Learned counsel for the petitioner has failed to point out any perversity or substantive error in the judgment of the learned Additional Sessions Judge.

The jurisdiction of the Court, while dealing with revision petition, is limited. Interference in the revision petition is permissible only if the case falls within those parameters. In the considered view of this Court, petitioner has failed to bring the case within the parameters of interference at the stage of revision.

In view of the above, the revision petition is dismissed. Pending application(s), if any, shall also stand disposed of, in terms thereof.

06.09.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No