

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

CRR-256-2015 (O&M)

Date of Decision: 06.02.2020

Arvind Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR.JUSTICE H.S. MADAAN**

Present: Mr. D.S. Kahlon, Advocate for the petitioner.

Rana Harjasdeep Singh, DAG, Punjab.

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**H.S. MADAAN, J.**

Accused Rohit Kumar, Mohit, Pankaj Pathania, Sunil and Baljit Singh @ Sethi faced trial in case FIR No.03 dated 04.03.2011 for offences under Sections 325, 323, 148 and 149 IPC, registered with Police Station Dhar Kalan. Judicial Magistrate Ist Class, Pathankot, vide order dated 07.10.2013 acquitted all the accused of the charge framed against them.

Briefly stated facts of the case as per prosecution story happened to be that on 09.01.2011, complainant Arvind Singh got his statement recorded with SI Jarnail Singh at Police Station Dhar Kalan, wherein, he stated that on 04.01.2011, he had boarded a bus for returning to his house. At about 4.30 PM, when the bus reached near Hara School, then two boys namely Rohit and Mohit caught hold of him from his neck and dragged him down from the bus. Those two boys were accompanied

by some other boys. Accused Pankaj gave a slap on his left cheek whereas, accused Sethi gave a baseball bat blow; accused Lucky gave a blow of grip and all of them beat him up. He raised alarm which attracted Randhir Singh of his village, who rescued him. The motive behind the incident was that a dispute had taken place between the boys inter se and complainant had asked them not to quarrel. As such, feeling annoyed, they had caused injuries to him. Talks for compromise were going on but those could not mature. The complainant handed over his MLR to the police, in which the doctor has shown two injuries. Entry in the DDR was made and complainant was directed to approach the Court for further action. On 09.01.2011, an MLR was received in which the doctor had declared injury No.1 as grievous in nature. A DDR entry No.14 dated 09.01.2011 was made by SI Jarnail Singh in that respect. Complainant Arvind Singh had already stated that accused Pankaj had given him a slap, due to that reason injury No.1 was kept for X-ray opinion. However, the complainant did not get himself admitted in civil hospital. No X-ray examination was got done either from Civil Hospital, Pathankot or from Civil Hospital, Gurdaspur. Since, it was found that complainant in connivance with private doctor had procured X-ray report after inflicting injuries himself, a DDR entry No.20 dated 10.02.2011 was made. SI Ramesh Chander summoned both the parties to appear before him. Thereafter, the FIR in question was registered for offences under Sections 325, 323, 148 and 149 IPC. Accused were arrested in this case.

After completion of investigation and other formalities, the

challan against the accused was prepared and filed in the Court of Illaqa Magistrate. Such Magistrate supplied copies of documents relied upon in the challan to the accused free of costs as provided under Section 207 Cr.P.C.

Thereafter, finding a prima facie case, charge for offences under Sections 148, 325, 323 read with Section 149 IPC was framed against the accused, to which, they pleaded not guilty and claimed trial.

During the course of prosecution evidence, it examined inasmuch as 08 PWs as per details below:-

PW1- Arvind Singh complainant reiterated on oath his case as given in his statement to the police Ex.PA.

PW2- Randhir Singh provided the eye witness account of the incident supporting the prosecution story on material aspects.

PW3- SI Ramesh Chander who had carried out the investigation in this case deposed in that regard, proving various documents.

PW4- SI Jarnail Singh who had recorded statements of complainant as EX.PA deposed in that regard.

PW5- Sham Deen an eye witness provided the ocular version of the incident, supporting the prosecution story on material aspects.

PW6-Dr. Harsh Mahajan, provided medical evidence tendering into evidence his duly sworn affidavit as Ex.PW6/A, copy of X-ray report as ExPW6/3, X-ray films as Ex.PW6/1 and Ex.PW6/2 respectively.

PW7-HC Dilbagh Singh proved on record DDR entry as Ex.PW7/A.

PW-8 Dr. Anita Parkash submitted her duly sworn affidavit as Ex.PW8/A. She proved X-ray report as Ex.PW6/3, MLR as Ex. PW8/B.

With that the prosecution evidence was concluded.

Statements of the accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against the accused were put to them but they denied the same, contending that they were innocent and had been falsely implicated in the case. The accused did not lead any evidence in defence.

After hearing arguments, the trial Magistrate acquitted the accused of the charge framed against them, vide judgment dated 07.10.2013.

The complainant had preferred an appeal against that judgment to the Court of Sessions. Learned Sessions Judge, Pathankot, vide judgment dated 18.10.2014, dismissed the appeal.

The complainant has preferred a revision petition before this Court against such judgments passed by the Courts below. Notice of the revision petition was given to the State of Haryana, which has appeared through its counsel.

I have heard learned counsel for the parties besides going through the record.

Learned Trial Magistrate, while acquitting the accused of the

charge framed against them has given the following reasoning:-

- The Investigating Officer of the case has himself admitted that the complainant had procured X-ray report by causing self inflicting injuries.
- There has been gross delay in reporting that matter to the police inasmuch as the incident had taken place as per prosecution story on 04.01.2011 whereas report regarding the matter was registered with the police on 09.01.2011 i.e on the 5<sup>th</sup> day of the incident. The explanation offered that it was on account of the fact that efforts for amicable settlement were being made, does not appear to be convincing.
- The complainant had not got his X-ray examination conducted either from Civil Hospital, Pathankot or from Civil Hospital, Gurdaspur. There are variations in ocular and medical evidence inasmuch as PW8 Dr. Anita Parkash had stated that there was no visible mark on injury on the mandibular joint and if injury No.1 was inflicted with a sharp edged weapon, then there should have been mark of injury on the cheek of patient. The X-ray examination had been conducted after 15 days of her reference for that purpose.
- PW2-Randhir Singh had stated in his cross-examination that when he reached the spot, complainant Arvind Singh was lying unconscious having suffered injuries, meaning thereby that the witness had not seen the incident.

➤ PW5 Sham Deen could not give the names of the assailants.

The prosecution had failed to prove on record the guilt of the accused beyond a shadow of reasonable doubt. As such, they were given benefit of doubt and acquitted of the charge framed against them.

Learned Sessions Judge, Pathankot did not find any fault with such judgment passed by the Trial Magistrate and has upheld the same, dismissing the appeal filed by the complainant.

I find that both the judgments passed by the Courts below are well reasoned, based upon proper appraisal of evidence and correct interpretation of law. They do not suffer from any illegality or infirmity, much less apparent on the face of such judgments, which might have called for interference by this Court, while exercising revisional jurisdiction. The judgments are certainly not perverse or in violation of settled legal principles. There is no merit in the instant revision petition, the same stands dismissed accordingly.

06.02.2020

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**(H.S. MADAAN)**  
**JUDGE**

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |