

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-1221-2017 (O&M)

Date of Decision: 19.02.2020

Darshan Singh and others

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Satbir Rathore, Advocate for the petitioners.

Mr. Pawan Sharda, Sr. DAG, Punjab.

Mr. Gaurav Singla, Advocate for respondent No. 2.

RAMENDRA JAIN, J. (ORAL)

Through this revision, accused-petitioners have laid challenge to judgment dated 23.02.2017 of Ist Appellate Court, passed in appeal filed by respondent No. 2-complainant-Bachittar Singh, whereby case was remanded to the trial Court for fresh decision, setting aside judgment dated 03.03.2014 of trial Court, recording acquittal of the petitioners.

Briefly, petitioners No. 1 and 2, namely; Darshan Singh and Dalip Singh, are real brothers of complainant-respondent No. 2-Bachittar Singh, whereas petitioner No. 3-Sukhjinder Singh is his nephew petitioner No. 4-Manjit Kaur, is his sister-in-law (Bhabhi) and petitioner No. 5-Ajit Singh, is a co-villager. Respondent No. 2 lodged FIR No. 37 dated 10.06.2004, under Sections 326, 323, 324, 506, 447, 148 and 149

IPC, Police Station Hambrran (now Sidhwan Bet), on the allegations that on 06.06.2004, while he was ploughing his fields with his son, the petitioners armed with deadly weapons attacked and caused injuries to him and his brother Harnek Singh, with the respective weapons. On raising hue and cry, the petitioners fled away from the spot.

After filing of final report under Section 173(2) Cr.P.C. by the police, petitioners were charge-sheeted under Sections 326, 324, 323, 447, 148 and 149 IPC, vide order dated 20.03.2006 to face trial. When the prosecution did not conclude its evidence, despite availing numerous opportunities i.e. around 79 in number, the trial Court having no other option, acquitted the petitioners as no evidence had come on record against them vide judgment dated 03.03.2014.

Being aggrieved, the complainant in his individual capacity, approached the lower Appellate Court, who vide impugned judgment dated 23.02.2017, instead of recording its own independent findings hushing up the issue, remanded the case to the trial Court for fresh decision.

Heard.

Having given thoughtful consideration to the rival submissions, this Court finds the instant revision merits acceptance for the reasons to follow:

Admittedly, FIR was registered against the petitioners on 10.06.2004. They were charge-sheeted on 20.03.2006. Thus, it is evident on record that the petitioners have been facing an ordeal for the last 16 years, inasmuch as, after registration of FIR in the year 2004, a

protracted criminal trial has been hanging on their heads like a damocle's sword. More so, prosecution had availed as many as 79 opportunities to conclude its evidence. Even, the trial Court failed to secure the presence of respondent No. 2-complainant, despite issuance ofailable warrants against him to complete his cross-examination by defence counsel. Any other witness examined by the prosecution also did not support the prosecution case.

I have also gone through the evidence adduced by the prosecution and find that the petitioners were legally and correctly acquitted by the trial Court as a no evidence case against them. The lower Appellate Court, instead of remanding the case was required to delve into the issue itself, inasmuch as, the circumstances of the case did not ever require any remand. The lower Appellate Court, shirked from its responsibility of deciding the appeal of respondent No. 2-complainant against the petitioners, on merits and adopted a short-cut method by remanding the case.

It is pertinent to mention here that by and large the revisional or appellate Courts have become habitual of remanding cases, shirking from their own responsibility. This practice is required to be deprecated. Therefore, Registry is directed to issue necessary instructions after due notice and permission of Hon'ble the Chief Justice, to all the revisional/appellate Courts in both the States of Punjab, Haryana and U.T. Chandigarh, that in case, they remanded any case to the trial Court, they would simultaneously transmit intimation to this Court with a copy of judgment and reasons recorded therein, for perusal, consideration and

passing of appropriate orders or direction, if any. In case, any irregularity is found in the remand order, appropriate action needs to be taken against the officer concerned.

In view of discussion made above, instant revision is accepted, impugned judgment of lower appellate Court dated 23.02.2017, is set aside and judgment of acquittal rendered by the trial Court dated 03.03.2014, is upheld.

February 19, 2020
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(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No