

CRR-2445-2019

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

**CRR-2445-2019 (O &M)
Date of Decision:06.02.2020**

Raj Pal

... Petitioner

Versus

Som Parkash and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Arun Sharma, Advocate,
for the petitioner.

HARNARESH SINGH GILL, J.

CRM-29536-2019

This is an application under Section 5 of the Limitation Act for
condonation of delay of 314 days in filing the revision.

Heard.

In view of the grounds mentioned in the application, the same
is allowed and the delay of 314 days in filing the revision is condoned.

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This criminal revision has been filed by the petitioner against
the judgment dated 09.08.2018 passed by the learned Additional Sessions
Judge, Karnal, vide which appeal preferred by the petitioner against the
judgment dated 21.04.2015 passed by the learned Chief Judicial Magistrate,
Karnal, thereby dismissing the complaint filed by the petitioner under

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Sections 323, 325, 392, 395, 435, 436, 447, 448, 148 and 149 IPC, and discharging the accused, was dismissed.

The brief facts of the present case are that the petitioner had filed a complaint against the respondents. It was averred in the complaint that father of complainant had been residing in front of Kashyap Dharamshala, situated in front of Lado Bagri Mohalla, Karnal, since 15-20 years and in that house, two rooms had been constructed and that the house in question had been in possession of the father of complainant and their goods/luggage had been lying in that house. It was further averred that on 08.08.2004 at about 7.30 p.m, the accused persons had come to the house of complainant with common intention and after breaking open the lock of his house, they had thrown the whole household goods/articles outside the house. In the meantime, Mukesh Kumar, son of complainant, had reached there and intervened; that Piare Lal and Nathi Ram had raised a lalkara for teaching a lesson to the complainant; that Som Parkash had given an iron rod blow to Mukesh Kumar; that Piare Lal had given a danda blow on his head; that Nathi Ram had given an iron rod blow on his back and that when Mukesh Kumar raised an alarm, his younger son Raman had also come there. It was further averred that Nathi Ram had given an iron rod blow on his forearm and that Jai Narain had given a lathi blow on his right shoulder. When the complainant and his son, Mukesh Kumar, fell down, the other accused namely Rinku, Koka, Bhola, Radhe Sham and four ladies had given slaps and fist blows to them. Prem Singh had rescued the complainant and his sons from the clutches of the accused, otherwise the accused would have killed them. While leaving the spot, the accused had also threatened to kill

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the complainant and had also stolen their household articles. It was also alleged that ASI Prem Singh and some police officials had been connived with the accused. The complainant got his medical conducted from Govt. Hospital, Karnal, but no action was taken against the accused even on the receipt of X-ray report also.

Vide order dated 12.08.2013, the accused had been summoned under Sections 323, 325, 506, 448, 440, 148 and 149 IPC.

However, the learned trial Court, vide impugned order dated 21.04.2015, dismissed the complaint and discharged the accused.

Being dissatisfied, the petitioner filed an appeal before the learned Additional Sessions Judge, Karnal, which had been dismissed vide impugned judgment dated 09.08.2018.

Feeling aggrieved against the impugned judgment dated 09.08.2018, the present revision petition has been filed.

Learned counsel for the petitioner has contended that both the courts below had not considered the evidence on record in right perspective and wrongly discharged the accused. Rather, on the basis of evidence, a prima facie case under Sections 323, 325, 506, 448, 440, 148 and 149 IPC is made out against the accused.

I have heard the learned counsel for the petitioner and with his able assistance, have gone through the record.

Perusal of the record shows that a civil dispute was pending between the complainant and the accused with regard to the possession of a house (allegedly in the possession of complainant) where the alleged occurrence had taken place. The complainant had been expelled from

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Kashyap Rajput Sabha for six years on account of his misconduct and at that time, accused-Som Parkash had been the president of that Sabha. Therefore, the possibility of false implication of the accused cannot be ruled out.

From the evidence on record, it is also established that the complainant is a habitual litigant and some other criminal cases were also pending against him in which he had compromised the matter. The alleged occurrence is of 08.08.2004, but the complaint was filed on 02.11.2004 i.e. after a period of almost 03 months. The delay had not been explained by the complainant in a plausible manner. The complaint had been filed against 17 persons, whereas from the testimony of CW 2, it is clear that the alleged scuffle stated to have taken place between him at one hand and Pyare Lal, Som Parkash, Nathi Ram and Rinku on the other hand. In that eventuality, the plantation of other accused was certainly a false implication and even in the complaint also, no specific role had been attributed to them except for alleging that other accused had given slaps and fist blows to him. Both the courts below have rightly discussed that it was not specifically mentioned in the complaint as to what type of household goods had been thrown. Even the alleged complaint by complainant before the police, had also not been produced and proved on record. Moreover, the complainant stated in his cross-examination that he did not remember the names of 15-20 persons, who were present at the spot. He also stated that his son had already suffered injuries prior to his arrival at the spot and he had been informed by the neighbours that his household articles had been thrown out/damaged.

In view of the above discussion, in my opinion, both the courts

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below have rightly held that there was no prima facie evidence of the alleged scuffle on the record which had allegedly taken place on 08.08.2004. Thus, it is clear that the complaint is false one and the same had been filed with a motive to falsely implicate the accused and to settle the personal score.

The findings have been given by the courts below after appreciating the evidence in right and proper perspective. In no way, these can be held as perverse or against the evidence and law. Nothing has been pointed out as to how the findings are perverse. Nothing has been pointed out as to which material evidence has been misread or has not been considered by the courts below.

Therefore, finding no merit in the present revision, the same is dismissed.

06.02.2020

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Note:	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No