

CRM-A-2817-2019

Date of Decision: 31.01.2020

Bohar Singh

... Petitioner

vs.

Gurmej Singh and Others

.. Respondents

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. R.S.Joon, Advocate for
Mr. H.S.Batth, Advocate, for the applicant.

VIVEK PURI, J.(ORAL)

The complaint has been instituted on the allegations that on 28.10.2014, the complainant alongwith his wife Charan Kaur, son Gurjit Singh and Major Singh were present in their house. At about 4:00 P.M., the accused armed with weapons alongwith 25/26 unidentified persons came to the land of the complainant bearing khasra No. 43//21 on a combine and tractor which was being driven by accused Gurbir Singh. They cut the paddy crop of the complainant. Gurmej Singh also pointed .12 bore rifle towards the complainant and threatened to kill, in the event anyone came to the land.

The respondents were summoned to face trial for having committed offence under Sections 447/427/506/148 and 149 of the Indian Penal Code (for short 'IPC'). In the pre-charge evidence, the complainant had examined himself besides his son Gurjit Singh (CW2) and Charan Kaur (CW3). The charge under Section 447/427/506/148 and 149 IPC was framed against the respondents to which they pleaded not guilty and claimed trial.

The aforesaid three witnesses were further cross-examined.

The statement of the respondents under Section 313 Cr.P.C.were recorded and they had examined Balkar Singh (DW1) and Jagtar Singh (DW2) in the defence evidence besides producing some documents.

Learned trial Court has primarily dismissed the complaint on the score that there is a delay of two months in submitting the complaint. Although, it

has been mentioned that a complaint mark 'B' was submitted to the police but significantly no witness from the concerned police authorities was examined to prove the actual delivery of any such complaint at the earlier instance. Even no revenue record pertaining to the land where occurrence allegedly took place has been proved on record. It has also been observed by the learned trial Court that there was lack of satisfactory evidence to indicate that the paddy crop was sown by the complainant. Moreover, the version of the complainant found support only from the deposition of interested witnesses i.e. his son and wife. No independent witness or neighborer has been examined to establish the fact of the said occurrence. It has also been concluded that the photographs mark 'A' are not proved to be relating to the land in dispute. The complainant had also filed a suit for permanent injunction subsequent to the alleged occurrence but significantly, the detail of occurrence has not been specified therein.

It may be mentioned here that in an appeal against acquittal, if two views are possible and the Court below has acquitted the accused, the Appellate Court would not be justified in setting aside the acquittal merely because other view is also possible. The Appellate Court cannot substitute its reasons or possible view, if the view of the learned trial Court while acquitting the accused was the possible view. Furthermore, the acquittal of the accused also bolsters the presumption of their innocence.

In such circumstances, the view taken by the learned trial Court appears to be reasonable and probable and does not suffer from any perversity, illegality or error which may call for any interference or indulgence by this Court.

Leave to appeal is declined.

31.01.2020
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(VIVEK PURI)
JUDGE

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