

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

CRA-S-1115-SBA of 2007

DATE OF DECISION :- July 29, 2022

Vijay Singh

...Appellant

Versus

Kura Ram and others

...Respondents

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

Present:- Mr. Aditya Sanghi, Advocate for the appellant-complainant.

Mr. P.R. Yadav, Advocate for the respondents-accused.

Mr. Brijesh Sharma, Assistant Advocate General, Haryana.

This appeal is directed against the judgment dated 17.8.2004 passed by the Court of Additional Chief Judicial Magistrate, Rewari vide which private complaint filed by complainant Vijay Singh son of Sh. Parbhati Lal, resident of Village Tatarpur Istmurar, Tehsil and District Rewari against Kura Ram, Hanumat Singh, Raj Singh, Smt. Santosh and Smt. Lado Devi for offences under Sections 323/452/148/149/506/307 IPC was dismissed.

Briefly stated facts of the case as per assertions in the complaint are that, on 25.9.1994 at about 8. P.M in the area of Vllage Tatarpur within jurisdiction of Police station Jatusana, District Rewari all the accused had formed an unlawful assembly armed with lathis and in prosecution of their common object criminally trespassed in the house of the complainant after making preparation to cause hurt and committed rioting by using force and violence against the complainant side. In that process simple injuries were caused to complainant Vijay Singh with blunt weapons. The motive for the

incident was the dispute between the parties who are closely related with regard to the ancestral property.

After recording of preliminary evidence, all the accused were summoned to face trial for offences under Sections 323/452/34 IPC. The accused put in appearance and were admitted to bail.

Thereafter the complainant led pre-charge evidence and the trial Magistrate finding prima facie case to charge the accused for offences under Sections 148/323/452/506/149 IPC charge sheeted them accordingly, to which they pleaded not guilty.

The witnesses already examined by the complainant during pre-charge evidence were subjected to further cross-examination.

Thereafter statements of accused were recorded under Section 313 Cr.P.C in which they pleaded innocence stating that the present complaint is a counter blast filed by the complainant side to save themselves in a case titled as State Vs. Sunil etc. bearing F.I.R No. 288 of 29.10.1994 under Sections Sections 148/323/452/149 IPC. As a matter of fact, the present complainant Vijay Singh accompanied by one Sunil, Parbhati, Amar Singh and Ram Avtar had inflicted injuries on persons of Hanumat and his mother Lado Devi whereas at the time of occurrence Raj Singh and Santosh were living in Gurgaon. The accused had adduced evidence in defence also.

After hearing arguments, considering the fact and circumstances of the case and analyzing the evidence brought on file by the complainant learned trial Magistrate vide judgment dated 18.8.2004 acquitted the accused of the charge framed against them.

The main reasons given by learned trial Magistrate for

returning finding of not guilty and granting acquittal to the accused are that (i) the version given in the complaint was false and a concocted story had been put forward as a counter blast to pressurize the present accused to arrive at a compromise in the State case got registered by them against complainant side; (ii) medical evidence not corroborating the ocular evidence; PW5 Dr. Kamal Mehra, a witness examined by the complainant who had medico legally examined the complainant Vijay Singh preparing his MLR in his statement deposed that complainant had been earlier examined on 25.9.1994 as non-MLC case by the causality doctor and injuries found on person of Vijay Singh were self suffered and Vijay Singh had stated that he did not want any police action; (iii) PW 5 Dr. Kamal Mehra had again appeared in the Court as DW1 and deposed that he had medico legally examined accused No. 2 Hanumat Singh who had suffered inasmuch as 9 injuries besides medico legally examined accused No. 5 Smt. Lado finding 3 injuries on her person which has not been explained by the complainant; (iv) gross delay being there in filing the complaint in the Court inasmuch as the complainant had got himself medico legally examined on 26.9.1994 yet the complaint was filed on 21.11.1994 i.e. after delay of about 1 month and 25 days and no plausible explanation was there for such delay; (v) the complainant did not opt to get his DDR proved which according to him he had got recorded with the police on 27.9.1994 i.e. 2 days after alleged incident.

Feeling aggrieved by the judgment of acquittal rendered by the trial Magistrate, the complainant had approached this Court seeking leave to appeal under Section 378(4) Cr.P.C. That leave was granted to him The appeal was admitted vide order dated 18.5.2007. Now it has come up for

final hearing.

I have heard learned counsel for the appellant/complainant learned counsel for the respondents/accused and learned State counsel besides going through the record.

As it comes out, the complainant had failed to prove charge against the accused beyond a shadow of reasonable doubt. The case of complainant was full of lacuna and loop holes rendering it doubtful and unworthy of reliance so as to convict the accused. The judgment passed by the trial Court is detailed, well reasoned, based on proper appraisal of evidence and correct interpretation of law. There is no illegality or infirmity in the judgment which might have called for interference by this Court while exercising the appellate jurisdiction.

The appeal being without merit stands dismissed.

(H.S. MADAAN)
JUDGE

July 29, 2022
p.singh

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