

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.2127 of 2004
Reserved on: 17.11.2022
Date of Decision:18.11.2022

Raj Singh

...Petitioner

VS.

State of Haryana and others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Argued by : Mr. Kulvir Narwal, Advocate
for the petitioner.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

The present revision petition is directed against the judgment dated 22.05.2004, passed by the learned Additional District and Sessions Judge (Adhoc), Jhajjar, whereby, respondents No.2 to 5 were ordered to be acquitted by the learned trial Court.

The brief facts of the case are that the FIR in the instant case was got registered by Raj Singh S/o Hukam Singh, who was elected as Sarpanch of the village Badli. The said election was challenged by Sat Narain, respondent No.3 in the Court of SDM, Bahadurgarh and the election petition was still pending for consideration in the said Court. At about 9.00 a.m. on 07.04.2000, the complainant, Raj Singh and his brother Wazir Singh, were going to the Court to attend the proceedings. When they reached near the house of Sat Narain, accused, Ranbir S/o Sat Narain asked them in loud voice as to where

they were going. The complainant replied that they were going to attend the hearing of the election petition, filed by his father. On hearing so, Ranbir respondent No.5, rushed towards them with a pharsa in his hand and gave a pharsa blow to Raj Singh, which hit him on the back of his head. Thereafter, Ramphal accused also rushed with a lathi in his hand and gave a blow with a lathi on the right side of the head of the complainant. In the meantime, Sat Narain, respondent No.3 and Ajit, respondent No.4 also rushed there with licensed gun and a country made pistol respectively in their hands. Sat Narain, fired at the complainant two gun shots with an intention to kill him, but the complainant avoided the fire by sitting on the ground and the pellet caused injury at the head of his brother Wazir Singh. Ajit Singh hit him with the butt of pistol at his knee. They raised the noise to save them, which attracted Jitender and Krishan and they were rescued from the assailants. In the meantime, several villagers also reached at the spot and some women and children of the village also reached there and they threw brick bats at the assailants. It was also averred that brick bats might have caused injuries to the complainant sides/ the assailants. With the help of Jitender and Krishan, Raj Singh and Wazir Singh were taken to Civil Hospital, Jhajjar and were got admitted there.

On the statement made by Krishna, a cross-case was also registered against the present complainant side and four persons on the complainant sides were also challaned by the police after investigation. The charge under Sections 323, 307 and 34 of IPC read with Section 25/27 Arms Act were ordered to be framed against the accused in the instant case and the trial was held by the learned trial Court. After conclusion of the trial, the

learned trial Court held that the prosecution had failed to prove the case against the accused beyond reasonable doubt and respondents No.2 to 5 were ordered to be acquitted. Assailing the impugned judgement of acquittal, passed by the learned trial Court, the petitioner has preferred the instant criminal revision before this Court.

While considering the scope in a petition challenging the judgment of acquittal, the powers have been spelt out by the Hon'ble Supreme Court in a catena of judgments. The Hon'ble Supreme Court has also cautioned the Courts to follow the well-established norms, while dealing with the judgments of acquittal recorded by the trial Court. The High Court has full powers to review the evidence, upon which the order of acquittal was founded, but it is equally well-settled that the presumption of innocence of the accused was further reinforced by his acquittal by the trial Court and the findings of the trial Court, which had the advantage of seen the witnesses and hearing their evidence and can be reversed only for very substantial and compelling reasons. Still further, the High Court should always give proper weight and consideration to the views of the trial Court as to the credibility of the witnesses; the presumption of innocence in favour of the accused; the right of the accused to the benefit of any doubt; the slowness of an appellate Court in disturbing a finding of fact arrived at by a Judge, who had the advantage of seeing the witnesses.

With the assistance of the learned State counsel, I have examined the facts of the case in the light of the above said principles of law. The learned trial Court has recorded detailed reasons to record the judgment of acquittal and this Court finds no ground to reverse the same. A perusal of the record reveals that the entire case is based on the testimonies of interested and related

witnesses. Krishan and Jitender were cited as witnesses and only Krishan has been examined, who is closely related to Raj Singh, the complainant. Another witness Jitender is also closely related to Raj Singh. Even the witnesses of recovery i.e. PW-4 Satpal and Chand Ram were related and interested witnesses. The prosecution only examined PW-4 Satpal, whereas Chand Ram was not examined.

With the assistance of the learned State counsel, I have gone through the testimonies of the above witnesses, but the same does not advance the case of the prosecution in any manner and are unbelievable. Still further, a cross-case was also registered regarding the occurrence, in which three persons on the side of the accused sustained more serious injuries. The injuries suffered by Krishna were found to be grievous and there is no explanation by the present complainant side with regard to the injuries suffered by the accused side. Still further, from the record, it is evident that the complainant side had not explained the injuries suffered by the accused side, but also the complainant side is guilty of concealing the genesis of the occurrence. Even, there are material discrepancies with regard to the weapons of offence and the number of injuries suffered by the injured. Even it was alleged that the fire arms were used by the assailants, however, there is no corresponding injuries with the fire arm. A false stand was taken by PWs that a lacerated wound measuring 5.5 cm x 5 cm on the left side scalp parietal area on the person of Wazir Singh was suffered due to a pellet, but as per the doctor, it was with a blunt weapon.

As per the medical opinion, the injuries on the persons of Raj Singh and Wazir Singh could be with brick bats, which make the case of the accused side to be more probable. Still further, whenever, a double barrelled

gun is used, the pellets spread from the fire shots according to the distance from where they are fired. As per the case of the prosecution, two fires were made upon four persons of the complainant party, but no such pellet injuries were suffered by the complainant side. Some pellets must have caused injuries at the face, shoulder, chest etc. of the complainant party in such an eventuality and the absence of the same clearly ruled out the use of the gun in the present occurrence. Even it was alleged that Ajit was carrying a pistol, but surprisingly, instead of firing the pistol, he is alleged to have caused a butt blow at the knee of the injured, which is again highly improbable.

Still further, this Court agrees with the findings recorded by the learned trial Court so far as the motive is concerned. The learned trial Court has rightly held that the complainant party had already availed its legal remedy of challenging the election of Raj Singh by way of filing an election petition and since he was contesting the matter in the Court, so it does not appeal to the reason that he was the first to start the occurrence. Apparently, it appears that Raj Singh, and his brother Wazir Singh were going to the Court and on seeing Sat Narain sitting in front of the house, they had scuffled with him. The version put forth by the side of the accused seems to be more probable. The findings recorded by the learned trial Court are duly supported by the evidence and there are no serious infirmities in the prosecution version. Consequently, the learned trial Court was virtually left with no choice, but to give the benefit of doubt to the accused according to the settled principles of criminal jurisprudence.

On consideration of the totality of the circumstance, it is held that the impugned judgment passed by the learned trial Court is well-reasoned and is based on due appreciation of evidence. Consequently, the instant revision

petition is dismissed and the judgment passed by learned trial Court is ordered to be upheld.

Pending application, if any, is also disposed off, accordingly.

Case property, if any, be dealt with, and destroyed after the expiry of period of limitation. The trial court record be sent back.

18.11.2022
hemlata

(N.S.SHEKHAWAT)
JUDGE

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