

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

CRR No.2345 of 2015 (O&M)
Date of decision : 18.11.2022

Manmohan Singh

....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kartik Gupta, Advocate
 for the petitioner.

Mr. Arun Gupta, Asstt. Advocate General, Punjab.

PANKAJ JAIN, J. (ORAL)

CRM No.20463 of 2015

This is an application seeking condonation of delay of 95 days
in filing the instant revision petition.

For the reasons recorded in the application, the same is
allowed. Delay of 95 days in filing the present revision petition is
condoned.

CRR No.2345 of 2015 (O&M)

Complainant is in revision against the order of acquittal passed
by Judicial Magistrate 1st Class, Hoshiarpur which has been affirmed by
Additional Sessions Judge, Hoshiarpur in appeal.

2. As per the allegation levelled in the complaint it was alleged
that :

*“.....statement of Manmohan Singh son of Kuldeep Singh,
resident of opposite T.B. Hospital, Hoshiarpur got recorded by
him before ASI Malkiat Singh at Civil Hospital, Hoshiarpur on*

23.07.2004 at 10.00 P.M. He has stated that he is resident of above address and he was running shop of tyres at Premgarh Road, Hoshiarpur. On 18.7.2004 at about 9.10 P.M, after closing his shop he came to his house and was sitting on the roof at the first floor, then Aman Sood, his wife Monika Sood, his father Om Parkash along with one unidentified person came there. At that time Aman Sood was armed with datar, Om Parkash was armed with kirpan, Monika wife of Aman Sood and unidentified persons were armed with dangs and they caught hold of the complainant from his hair and threw him down. Then, Aman Sood gave datar blow, which struck on the left thumb and fingers of the complainant. Om Parkash gave kirpan blow which hit on the arms of the complainant. The unidentified person gave two blows of dang which hit on the back and right thigh of the complainant and Monika had given blow of dang, which hit on the right leg of the complainant. The complainant raised alarm for help and the accused persons fled away from the spot along with their respective weapons. Dharaminder Singh resident of village Bhatrana, who was present there had witnessed the entire occurrence and he got admitted the complainant in the Hospital. The motive behind the occurrence was that Satish Sood, wife of Om Parkash Sood had filed ejectment petition against them which was decided in favour of complainant by the learned lower court and learned Appellate court. The complainant further stated that the accused persons used to quarrel with him in order to vacate their house and due to that grudge the above said persons caused injuries to the complainant. The complainant further stated that in the quarrel his gold chain weighing 4 tolas had fallen somewhere. It was further stated that the above said persons had also given threats to kill the complainant and there was danger to the life of complainant as well as his family members from the above said persons.”

3. Trial Court after analyzing the evidence on record threadbare

found the case of prosecution to be highly doubtful and acquitted the accused.

4. The order of acquittal was challenged in appeal by the petitioner. The same was dismissed by the Appellate Court finding that -

“21. Further, the cross examination of PW1 also lends a fatal blow to the case of the prosecution. Firstly he has again reiterated that the occurrence had taken place on 17.7.04 whereas the other document shows that the occurrence as per prosecution had taken place on 18.7.04. He further stated in his cross examination that he had stated to the police that he was sitting in the upper portion but when confronted with the same it is not so recorded. Even in his complaint filed before the court he has not got recorded the same. Further he has been confronted with statement of Ex.DA whereby he has not stated anything regarding the golden chain which shows that an exaggerated version is being given by the complainant qua the golden chain. Further during cross examination he has stated that he had told to the police regarding the presence of his wife but later on he has admitted that even in her statement before the court in the complaint he has not got recorded regarding the presence of his wife. He further stated that he had filed the private complaint because the police had not added offence under Section 452 IPC.

22. In view of the aforesaid discussion, it is held by the court that there is not even an iota of evidence against accused Aman Sood, Monika Sood and Om Parkash. The prosecution has miserably failed to prove its case against accused-respondents. So learned lower court after going through entire evidence on the file has rightly acquitted the accused. As such, the appeal filed by appellant Manmohan Singh stands dismissed.”

5. Ld. Counsel for the petitioner has argued that the findings

recorded by the Courts below are perverse and urges this Court to re-appreciate the evidence but has not been able to point out any perversity in the findings recorded by Courts below which can lead to the conclusion that the view taken by the Courts below is not probable.

6. I have heard Ld. Counsel for the petitioner and have carefully gone through the record of the case.

7. The scope of revision against acquittal stands settled by Apex Court in the case of **Bindeshwari Prasad Singh @ B.P. Singh and others vs. State of Bihar (Now Jharkhand) and another, 2002 AIR (SC) 2907**

wherein it has been held that -

“12. We have carefully considered the material on record and we are satisfied that the High Court was not justified in re-appreciating the evidence on record and coming to a different conclusion in a revision preferred by the informant under Section 401 of the Code of Criminal Procedure. Sub-section (3) of Section 401 in terms provides that nothing in Section 401 shall be deemed to authorize a High Court to convert a finding of acquittal into one of conviction. The aforesaid sub-section, which places a limitation on the powers of the revisional court, prohibiting it from converting a finding of acquittal into one of conviction, is itself indicative of the nature and extent of the revisional power conferred by Section 401 of the Code of Criminal Procedure. If the High Court could not convert a finding of acquittal into one of conviction directly, it could not do so indirectly by the method of ordering a re-trial. It is well settled by a catena of decisions of this Court that the High Court will ordinarily not interfere in revision with an order of acquittal except in exceptional cases where the interest of public justice requires interference for the correction of a manifest illegality or the prevention of gross miscarriage of justice. The High Court

will not be justified in interfering with an order of acquittal merely because the trial court has taken a wrong view of the law or has erred in appreciation of evidence. It is neither possible nor advisable to make an exhaustive list of circumstances in which exercise of revisional jurisdiction may be justified, but decisions of this Court have laid down the parameters of exercise of revisional jurisdiction by the High Court under Section 401 of the Code of Criminal Procedure in an appeal against acquittal by a private party. (See AIR 1951 Supreme Court 196 : D. Stephens v. Nosibolla; AIR 1962 Supreme Court 1788 : K.C. Reddy v. State of Andhra Pradesh; (1973) 2 SCC 583 : Akalu Ahir and others v. Ramdeo Ram; AIR 1975 Supreme Court 1854 : Patalapathi Narayana Gajapathi Raju and others v. Bonapalli Peda Appadu and another and AIR 1968 Supreme Court 707 : Mahendra Pratap Singh v. Sarju Singh).”

8. Ld. Counsel for the petitioner has not been able to point out any infirmity which would warrant any interference in the revisional jurisdiction. Thus, taking into consideration the facts and circumstance of the case and in view of the ratio of law laid down by the Apex Court in **Bindeshwari Prasad Singh's case** (supra), no case for reappraisal of evidence is made out.

9. Consequently, the present revision petition is dismissed.

November 18, 2022

Dpr

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No