

CRR-527-2016 (O&M)

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

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**CRR-527-2016 (O&M)
Date of decision: 31.10.2022**

RAVINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB & ORS.

...Respondents

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.S. Dadwal, Advocate for the Petitioner.
Mr. Rajiv Verma, AAG, Punjab.
Mr. Satinder Pal Singh Dhaliwal, Advocate
for respondents No. 2 to 4.

SANDEEP MOUDGIL, J

CRM-4452-2016

This is an application under Section 5 of the Limitation Act seeking condonation of delay of 237 days in filing accompanying revision petition.

Keeping in view the averments contained in the application, the same is allowed and as such, the delay of 237 days in filing the accompanying revision petition stands condoned.

CRM-5649-2020

This is an application under Section 482 Cr.P.C. for placing on record reply by way of affidavit of Baljeet Singh – Respondent No. 2 on

CRR-527-2016 (O&M)

behalf of Respondent Nos 2 to 4, to the application for condonation of delay.

The same is allowed and reply by way of affidavit is taken on record subject to all just exceptions.

MAIN CASE

The instant revision petition has been preferred against the Judgment dated 03.02.2012 passed by Sub Divisional Judicial Magistrate, Jagraon vide which respondent Nos 2 to 3 – accused have been acquitted of the charges under Section 323, 341 of the Indian Penal Code, 1860 in case FIR No. 149 dated 26.05.2004 by giving them benefit of doubt as well as the Judgment dated 09.02.2015 passed by Additional Sessions Judge, Ludhiana, vide which the appeal against the aforementioned judgment has been dismissed.

The brief facts of the prosecution case are that on 26.05.2002 Ravinder Singh, petitioner– complainant got recorded the statement with the police that at about 6.30 AM he and his brother Rajinder Singh were working on their shop. Their neighbour Baljit Singh armed with kirpan, Paramjit Singh, armed with rod entered into their shop by raising lalkaras and said that they had abused them at night and today they will teach a lesson to them. Then Surjit Singh, empty handed, Ravi armed with wooden bala, Bugga armed with rod and Ashu armed with Rod also entered into their shop. Ravi gave a blow with his bala on him and he received two injuries on his arm. Paramjit Singh gave rod blow on his brother Rajinder Singh which caused two injuries on his forehead. Bagga Singh gave a rod blow which struck on the right arm of his brother. They raised raula upon

CRR-527-2016 (O&M)

which his wife Sukhminder Kaur, Rupinder Kaur wife of Rajinder Singh, Malkiat Kaur their mother and their father Bakhshish Singh came at the spot. The accused quarreled with them also and in the scuffle, gold chain of Sukhminder Kaur, one ear ring of Rupinder Kaur were stolen. Upon raising raula the accused ran way from the spot with their respective weapons. Motive behind this occurrence was that earlier there was a dispute between them on minor talk.

On the basis this statement of complainant-petitioner and the MLRs, the offence under Sections 452, 323, 148, 149 IPC was made out against the accused persons. During investigation, the offence under Section 452 IPC was not allegedly found to have committed by the accused and instead of 452 IPC, the offence under Section 341 was added. Accused Gurpreet Singh @ Ravi and Ashu Singh were found innocent and their names were dropped. The statements of the witnesses under Section 161 Cr.P.C. were recorded.

After completion of the investigation, the challan against all the private respondents-accused was prepared and sent to the court for trial of the accused for the offence punishable under Section 341, 323 read with Section 34 IPC.

Copies of the documents relied upon by the prosecution were supplied to the accused as required under Section 207 Cr.P.C.

Finding a prima facie case against the private respondents-accused, they were charge-sheeted under Sections 341, 452, 323 read with Section 149 IPC to which they pleaded not guilty and claimed trial.

CRR-527-2016 (O&M)

In order to prove its case, prosecution examined ASI Rajbir Singh, the Investigating Officer of the case as PW 1, Ravinder Singh, complainant as PW 2, Rajinder Singh, eye witness as PW 3, Sukhminder Kaur – wife of complainant as PW 4, Dr. Ajay Bansal as PW 5 and thereafter the evidence of the prosecution was closed by order dated 29.09.2011.

Statements of the accused under Section 313 Cr.P.C. were recorded in which all the incriminating circumstances appearing against them were put which they denied and pleaded that they have been falsely implicated in this case and preferred to lead defence. However, the accused closed the defence evidence by way of statements recorded separately on 03.02.2012.

After hearing arguments advanced by learned APP for the State, learned defence counsel and going through the file of the case, learned trial Court, acquitted respondents-accused of the charges framed against them giving them the benefit of doubt, vide judgment and order dated 03.02.2011.

The aforesaid judgment passed by the trial Court was challenged by means of Criminal Appeal No. 05 of 21.01.2013 before the Court of Additional Sessions Judge, Ludhiana which was dismissed vide judgment dated 09.02.2015.

Hence, the present criminal revision petition.

Learned counsel appearing on behalf of the petitioner contends that the learned Court below has failed to appreciate the fact that the

CRR-527-2016 (O&M)

petitioner as well as his brother, who are victims being injured and eye witnesses of the incident duly proved the injuries inflicted by the respondents-accused while appearing in the witness box as PW-2 and PW-3. It is also contended by the learned counsel that the courts below had ignored the vital fact of the matter that the testimonies of petitioner and his injured brother are duly corroborated and proved on record by PW-5 Dr. Ajay Bansal. The prosecution has been able to prove the guilt of the accused persons beyond all reasonable doubts but the learned Trial Court wrongly observed that the Investigator has made faulty investigation as he has not arrayed accused Ravi and Bugga Singh in the list of accused and as such it was a major lacuna in the case of prosecution, whereas, Gurpreet Singh @ Ravi, Ashu and Bugga were rightly not arrayed as accused being juvenile, a separate challan was presented against them before the Juvenile Justice Board and they have been convicted vide its judgment dated 23.03.2012. Furthermore, the learned Courts below have failed to appreciate the fact that the star witnesses of the case are complainant-petitioner Ravinder Singh PW-2, Rajinder Singh, eye witness PW-3, Sukhminder Kaur – wife of complainant PW-4, the petitioner-Ravinder Singh, who is complainant in the case has specifically deposed that on 26.05.2002 all the accused in furtherance of their common intention with each other voluntarily caused injuries to him and his brother Rajinder Singh.

Learned State counsel assisted by learned counsel for respondents No.2 to 4 has vehemently contended that there is no error in the impugned judgments, therefore, the same is liable to be upheld. It is

asserted that the complainant-Ravinder Singh and eye witness of the case

Rajinder Singh have duly proved regarding the inflicting of injuries on the person of the complainant and injured witness.

I have heard learned counsel for the parties and have gone through the record of the present case.

The aforesaid arguments have already been dealt with by the Appellate Court and after consideration thereof, the lower Appellate Court has recorded following observations:-

15. From the perusal of statement of Ravinder Singh complainant, star witness of the prosecution, it emerges out that Ravi gave two bala blows on his person which struck on his left arm, Paramjit Singh gave another rod blow on the forehead of his brother Rajinder Singh and due to which he also received injuries, Bagga Singh gave a rod blow which struck on the right arm of his brother Rajinder Singh but he did not deposed against accused-respondent that they caused any injury to him or his brother in his examination-in-chief on the other hand he also admitted his cross-examination that I got recorded in my statement Ex.PA that Baljit Singh, Surjit Singh and Karamjit Singh caused injuries to him but he confronted with his statement Ex.PA where this fact is not mentioned. Moreover PW 3 Rajinder Singh has also admitted that accused Baljit Singh, Surjit Singh and Karamjit Singh have inflicted injuries on their person and they have mentioned this fact in the statement recorded before the police but the perusal of Ex.PA as well as statement before the court does not find mention the names of Baljit Singh, Surjit Singh and Karamjit Singh that they have caused injuries to them. They have further testified the Karamjit Singh Paramjit Singh are the same person. So, by stating that Baljit Singh and Surjit Singh have also caused injuries on their person in the cross-examination is an improvement

in the version of prosecution regarding which the benefit cannot be given to the prosecution. In criminal cases, the burden lies upon the prosecution to prove its case against the accused beyond all reasonable shadow of doubts

16. Moreover, it is cardinal principle of law that the accused cannot be convicted on the basis of surmises and conjectures. The benefit of doubt, as and when the same arises, however, marginal same may be, is bound to tilt in favour of the accused. Therefore, it stands fully proved that the prosecution has not been able to connect the accused with the commission of offence beyond any reasonable doubt.”

While exercising its revisional jurisdiction, this Court cannot re-appreciate the evidence. However, learned counsel for the petitioner-complainant has failed to point out any illegality, perversity and infirmity in the concurrence findings of the Courts below, which may require this Court to interfere in the concurrence findings of both the Courts below.

In view of the above, while affirming the judgments of the Courts below, the present revision petition stands dismissed.

OCTOBER 31, 2022
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No