

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

CRR-763-2016(O&M)

Date of Decision:-23.12.2022

Jarnail Singh.

.....Petitioner.

Versus

Pritam Singh & Ors.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Raj Karan Singh, Advocate for
Mr. Abhinav Gupta, Advocate for the Petitioner.

None for respondent no.2.

Mr. Neeraj Poswal, Assistant Advocate General, Haryana.

JASJIT SINGH BEDI, J.

1. The present revision petition has been filed against the order dated 22.12.2015 passed by the Additional Sessions Judge, Kaithal vide which the appeal preferred by the petitioner(complainant) against the judgment of acquittal dated 09.10.2014 passed by the Judicial Magistrate, 1st Class, Kaithal has been dismissed.

2. The brief facts of the prosecution case as per the report submitted under Section 173 Cr.P.C and other accompanying documents are that on 16.6.2011, a V.T. message was received from Police Post GH, Kaithal regarding admission of Jarnail Singh son of Kali Ram, resident of village Dhons in an injured condition. ASI Inder Singh reached Police Post

GH, Kaithal and obtained ruqa and an MLR. An application was moved to the concerned Medical Officer on duty seeking fitness of the injured Jarnail Singh to make a statement, whereupon it was reported that injured Jarnail Singh refused to make any statement. On 17.6.2011 ASI Inder Singh alongwith EHC Kitab Singh and constable Satish Kumar again reached GH, Kaithal and moved an application to the concerned Medical Officer seeking opinion regarding fitness of the injured to make a statement. After receiving the said opinion, the statement of injured Jarnail Singh was recorded to the effect that on 16.6.2011 he went to his field for a walk early in the morning. At about 5.30 am, when he reached at Dhons Pundri road, three young boys came on a motor-cycle. Out of those three young boys, he knew the name of one person, who was Pritam son of Banarsi, resident of village Dhons. Pritam son of Banarsi was having a sword in his hand. The other boy was having an iron rod in his hand and the third one was having a binda of a spade in his hand. They at once stopped their motor-cycle near him and started inflicting injuries on him. Pritam inflicted a sword blow on his left leg above the knee. The two other assailants inflicted an iron rod blow on his head and a binda blow on his shoulder. He raised a noise which attracted Labh Singh son of Jangir Singh at the spot. On seeing him, all the three assailants fled away with their respective weapons on the motor-cycle. He could identify the other two assailants, if they would come before him. Due to illiteracy, he failed to note down the registration number and make/Model of the motor-cycle. Pritam Singh used to stay in village Dhons alongwith his family, but about 1-1/2 months ago, he had left the village after selling his property. There is an old enmity between him and Pritam, due to some land dispute and for this reason only Pritam and the other two young boys

inflicted injuries on him. After the incident his elder brother Hamir Singh got him admitted in GH, Kaithal. Action against the wrongdoers was prayed for.

3. On the basis of the above statement and after receiving the MLR, a case under Sections 323,324/34 IPC was registered. Investigation was set into motion. The Site was inspected. Site plan was prepared. Statements of witnesses were recorded under Section 161 Cr.P.C. Pritam Singh and Rajnish @ Manish @ Kala were arrested. During investigation, it was found that only two persons were involved in the accident. After completion of investigation final report under Section 173 Cr.P.C. was prepared and submitted in the Court against the accused Pritam and Rajnish for trial.

4. The accused were charge-sheeted on 17.9.2011 under Sections 323,324 read with section 34 IPC to which they pleaded not guilty and claimed trial.

5. In order to prove its case the prosecution examined the following witnesses:-

PW-1 Jarnail Singh

PW-2 ASI Inder Singh

PW-3 Labh Singh

PW-4 Dr. Sanjeev Bhagat

6. PW-1 is Jarnail Singh, complainant. He has deposed as per his statement Ex.PW-1/A given to the police.

PW-2 is ASI Inder Singh, the Investigating Officer of the present case. He has deposed various facts connected with the investigation. He has deposed regarding formal FIR Ex.PD, endorsement Ex.PD/1 and site plan Ex.PE.

PW-3 is Labh Singh. He has deposed on similar lines as of PW-1.

PW-4 is Dr. Sanjeev Bhagat. He has proved MLR of Jarnail Singh Ex.PW-4/A and ruqa Ex.PW-4/B.

No other witness was examined.

7. Based on the evidence lead the accused/respondents came to be acquitted vide judgment dated 09.10.2014.

8. The petitioner/complainant preferred an appeal before the Court of Additional Sessions Judge, Kaithal and the said appeal came to be dismissed vide judgment dated 22.12.2015.

The aforementioned two judgments are under challenge in the present revision petition.

9. The Counsel for the petitioner/complainant contends that PW-1 Jarnail Singh has wrongly been disbelieved by the courts while acquitting the accused/respondents.. The enmity on account of a land dispute between the complainant/petitioner Jarnail Singh and respondents/accused Pritam Singh was established. The deposition of witness Labh Singh, PW-3 was wrongly disbelieved and undue importance has been given to the delayed registration of the FIR. The medical evidence was clearly in consonance with the ocular account. He thus contends that the judgments of acquittal ought to be set aside.

10. None has appeared for the respondent no.2-accused.

11. The Counsel for the State on the other hand contends that after due consideration of evidence both the courts below have acquitted the accused. Nothing significant has been pointed out by the counsel for the petitioner/complainant so as to enable the court to set aside the judgments of

acquittal. He thus contends that the present petition ought to be dismissed.

12. I have heard Counsel for the parties.

13. In revisional jurisdiction the concurrent findings of innocence of an accused could only be interfered with if there were grave factual or legal errors committed by the courts below in acquitting the accused. In the present case, prosecution case is not free from doubt. As per the complainant/petitioner three accused assaulted him but on investigation the IO found that only two persons were allegedly involved i.e. accused/respondent no.1-Pritam Singh who was named in the FIR and accused no.2 Rajneesh. This contradiction is significant. The motive of their being a land dispute between the complainant and respondent no.1 Pritam Singh is also not borne out from the record. No documentary or other evidence has been produced to show that there was a dispute between the two. On the contrary, PW-3 Labh Singh who is purportedly an independent prosecution witness was an accused in an FIR got registered at the instance of Pritam Singh. Therefore, his deposition has to be seen with a pinch of salt. Even otherwise, it was not believable that three persons armed with sword, iron rod and a *binda* caused only four simple injuries on the person of the complainant. Further even the weapon of offence have not been recovered. There is an unexplained delay of 30 hours in the registration of the FIR and no test identification parade was held where PW-1 Jarnail Singh and PW-3 Labh Singh could identify the second assailant. Therefore, while it might be true that the petitioner/complainant was assaulted there is certainly a doubt as to whether the respondents/accused assaulted him.

14. In view of the aforesaid discussion, I find no infirmity in the

well reasoned judgments of the Trial Court and the lower Appellate Court
and therefore the present revision petition is dismissed.

(JASJIT SINGH BEDI)
JUDGE

December 23, 2022
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>