

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

107

CRR-1292-2021(O&M)

Date of Decision : **April 19, 2022**

JAIPAL ALIAS RAJPAL ALIAS RAJU AND ANOTHER

.....Petitioners

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Yashpal Thakur, Advocate
for the petitioners.

JASGURPREET SINGH PURI. J. (Oral)

The present revision petition has been filed assailing the orders passed by the learned ACJM, Fatehgarh Sahib dated 12.2.2017 by which the petitioners have been convicted under Sections 380, 457 and 458 IPC and also the judgment and order passed by the learned Sessions Judge-Appellate Court, Fatehgarh Shahib on 10.8.2021.

As per the prosecution, the present FIR was lodged on the ground that one Harbans Kaur wife of Gurdial Singh was admitted in Civil Hospital, Fatehgarh Shib and she had sustained injury on her head which was caused by thieves. Thereafter, the opinion of the doctor was also obtained and at that time the aforesaid injured was not fit to make her statement. However, one Harjit Kaur wife of Balwinder Singh, who was relative of the injured was present in the Hospital and got recorded her statement before the police to the effect that on 7.9.2012 she alongwith her mother-in-law Charan Kaur wife of late Nachhattar Singh,

Harbans Kaur wife of Gurdial Singh, her daughter Manjot Kaur and son Ranjit Singh after dinner about 10.30 p.m. were sleeping in the courtyard after closing the door of the boundary wall. Thereafter, at about 11.30 p.m. she heard a noise of opening of Almirah, then she told about this to her mother-in-law Charan Kaur and Harbans Kaur and they saw two boys, namely, Rajpal Singh @ Raju and Gurpreet Singh @ Goppi were searching the Almirah. The complainant had also seen that Amandeep Singh @ Nisha was standing near the main gate of the house and Lakhvir Singh @ Lakhi was also standing in her house. The said persons belong to her village. When the complainant objected about the search of Almirah by the aforesaid persons then Lakhvir Singh @ Lakhi caught hold Harbans Kaur and Amandeep Singh @ Nisha gave a kulhari blow upon said Harbans Kaur which hit on her head. Thereafter the complainant checked the articles of her house and it was found that currency notes of Rs.4500/- and a gold ring weighing 2½ tolas were stolen.

The learned counsel for the petitioners has submitted that in the present case both the judgments passed by the learned trial Court and Appellate Court were erroneous in view of the fact that the allegations against the petitioners were false because there was an old enmity between them and, therefore, the impugned judgments are liable to be set-aside.

I have heard the learned counsel for the petitioners.

Vide order dated 2.12.2021 this Court had requisitioned the record of the lower Court for the purpose of perusal.

The learned trial Court while convicting the petitioners discussed the witnesses on behalf of the prosecution which included the injured Harbans Kaur and Harjit Kaur who was present in the hospital while Constable Harinderpal Singh and Dr.Parminder Kaur, who was posted as Radiographer in the Civil Hospital, Fatehgarh Sahib and she had conducted the X-ray skull AP and lateral view of Harbans Kaur and one Navneet Verma for the purpose of identification of gold ring which was prepared in his shop. Apart from the same, further witnesses, namely, ASI Avtar Singh and ASI Gurmeet Singh were also examined and the aforesaid ASI Gurmeet Singh deposed as per the version of the prosecution and proved on record the memo regarding taking into police possession the blood stained clothes of injured-Harbans Kaur and other recoveries and the disclosure statements of the accused persons. The Investigating Officer was also examined and he had also proved on record the application moved by him to the doctor concerned for obtaining fitness of the injured to record her statement. Thereafter, the concerned doctor was also examined, namely, Dr. Kuldeep Singh as PW9, who deposed that he had brought the original record of MLR of Harbans Kaur, who was medico legally examined by Dr. Ramanpreet Kaur and as per the record, the injury was an incised wound, spindle shaped measuring 6 cm x 2 cm bone deep on right parietal region of scalp with active bleeding present and there was no history of unconsciousness, nausea or vomiting.

At the time of defence, no defence evidence was produced by the accused and, therefore, the defence evidence was closed.

The learned trial Court while discussing the entire evidence came to the conclusion that the prosecution has been able to prove its case and the injured-Harbans Kaur also specifically deposed with regard to the occurrence and causing of injury to her by the accused persons. The role of the petitioners have been specifically stated while deposing. It was further observed that the testimonies of the witnesses had remained consistent enough to corroborate the identity of the accused and although there were few minor discrepancies but they were insignificant and inconsequential. No defence evidence was produced by the petitioners and mere bald plea was taken that they have been falsely implicated but it would not be sufficient to demolish the case of the prosecution. All the four accused were sentenced to two years under Section 380 IPC and for three years under Sections 457 and 458 IPC alongwith fine. Thereafter the petitioners preferred an appeal before the learned Appellate Court and the learned Appellate Court while upholding the conviction, however, reduced the sentence of two years each under Section 380 IPC to one year each and of three years under Sections 457 and 458 IPC to one year and six months. The learned Appellate Court also discussed the entire evidence and came to the conclusion that the prosecution has been able to prove its case on the basis of the evidence available on record. It was also observed that the prosecution has also duly proved on record the recovery of axe from accused-Amandeep Singh and the recovery of gold ring was also proved.

The scope of the revision petition has its limited scope. Both the learned Courts below have discussed the evidence in detail and came

to the conclusion that the prosecution has been able to prove its case beyond doubt and the argument raised by the learned counsel for the petitioners that they have been falsely implicated only on the ground of old enmity cannot constitute a ground for interference in a revision petition. The petitioners did not produce any defence evidence and on the other hand the evidence of all the prosecution witnesses was consistent. The injured as well as the other witness, namely, Harjit Kaur, who was present in the hospital had also specifically attributed role of the petitioners in their statements while deposing. The argument raised by the learned counsel for the petitioners seeking interference on the ground that the petitioners have been implicated due to an old enmity cannot be gone into at this stage while considering the revision petition since the scope of the revision petition is very limited. This Court has not been able to find out any ground for interference in the revision petition since there is no error or perversity or infirmity in the orders of the learned trial Court as well as of the learned Appellate Court.

Consequently, finding no merit in the revision petition, the same is, hereby, dismissed.

April 19, 2022

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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No