

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

CRM-A-1157-MA-2015
Reserved on: 18.07.2023
Pronounced on : 25.07.2023

Rai Singh

....Applicant

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Manvinder Sidhu, Advocate, for the applicant.

Mr. Vipul Sherwal, AAG, Haryana.

HARNARESH SINGH GILL, J.

The applicant seeks leave to appeal against the judgment dated 06.06.2015 passed by the learned Judicial Magistrate, Ist Class, Sirsa, whereby respondent Nos. 2 to 7 have been acquitted of the charges framed against them.

2. Learned counsel for the applicant (complainant before the trial Court) would submit that once the title and possession of the applicant over the land in question stood proved and it too was established that the accused-respondents had forcibly entered the land of the applicant and destroyed the crop of the applicant, there was no occasion for the trial Court to negate the claim of the applicant to hold that the complainant had failed to prove his case leading to the acquittal of the accused-respondents.

3. It is further argued that the findings of the trial Court that there are inconsistencies and improvements in the version of the complainant and his witnesses, are not tenable for the

reason that with the passage of time, some inconsistencies and improvements in the earlier recorded version, are bound to occur. It is yet further submitted that learned trial Court was not justified in holding that the applicant was trying to seek declaration qua his civil rights as it was a proven case on record that the accused-respondents had forcibly entered the land of the applicant and had destroyed the crop.

4. On the other hand, the learned State Counsel, while defending the impugned judgment of acquittal, submits that conclusion drawn by the learned trial Court, is based on the totality of the evidence and circumstances on record.

5. I have heard learned counsel for the applicant.

6. The allegations levelled by the complainant in his complaint before the trial Court were that respondent Nos.2 to 7 had forcibly entered his land; that earlier also the said persons used to issue threats to the applicant and interfere in the peaceful cultivation of his land; that the applicant had filed a civil suit for permanent injunction, wherein a status-quo order had been passed, but respondent Nos. 2 to 7 did not mend their ways and continued repeating their illegal acts, regarding which the applicant had moved an application to SHO Police Station, Sadar, Sirsa; that on 31.10.2007, the said respondents in collusion with each other, had forcibly entered the land of the complainant and broke the lock of the room, where the harvested crop was stored; that they loaded the said crop in their tractor trolley and destroyed the standing crop; one Bhup Singh son of Bhana Ram informed the applicant about the said

incident, whereupon the applicant reached the spot and found that the said respondents were armed with weapons and therefore, the applicant could not resist their attempt; that the said respondents had tied the applicant with a rope and that the incident was reported to the police, but no action was taken.

7. Upon a complaint having been filed before the Court, the preliminary evidence was recorded and respondents No. 2 to 7 were summoned. Charges were framed against the accused,, to which they did not plead guilty and claimed trial. Thereafter, the parties had led their respective evidence.

8. The learned trial Court, dismissed the complaint filed by the complainant vide judgment dated 06.06.2015, holding that the defence had been successful in impeaching the credibility of PW1 and PW2 and it stood proved on record that the said witnesses were telling lies and rather deposed a tutored version before the Court.

9. It was further found that there were huge contradictions in the testimony of PW1 and PW3 as regards the manner of incident and the circumstances preceding and post the occurrence. It was further found that PW3-Sandeep had deposed that he used to live in the room constructed in the fields and that he had witnessed the entire incident, but his version was not supported by PW1 and PW2. PW3-Sandeep is the real nephew of the complainant-applicant. It was further found that had there been any substance in the version of the complainant-applicant, PW3-Sandeep would have been the first person to do something in this regard. It was further found that in the

complaint, the complainant-applicant had mentioned that he had received information regarding the incident at his field from some unknown person, whereas while appearing in the Court, he deposed that he had received the said information from PW-1 Bhup Singh. The learned trial Court, thus, proceeded to draw the following conclusion:-

“18. Interestingly this complaint is in contravention of statement of PW2 who has stated that when he received information on telephone, he firstly went to the Police Station and moved a complaint and thereafter he had gone to the fields. In Ex. PW1/D, the facts are different.

19. Further, in my opinion, the defence has been successful to impeach credibility of PW1 and PW2. They have proved that these witnesses are telling lies before the Court. These witnesses are habitual of litigation and Court proceedings are not unfamiliar to them, meaning thereby, they could have been well tutored by the complainant. Moreover, they are interested witnesses. Both PW1 and PW3 had enmity with the accused persons. They have told lies to the Court. Once, it is established that a witness is telling a lie and has previous conflict of interest with accused, it would not be safe to rely upon the testimony of that witness....”

10. Learned counsel for the applicant could not point out any material illegality in the findings recorded by the trial Court. It is the case of the applicant-complainant himself that he had obtained statu-quo order from the Civil Court in respect of the land in question. If it was so, the applicant ought to have proceeded against the accused-respondents for contempt of the Court's order. There is nothing to indicate as such.

11. Yet further, a perusal of the impugned judgment of acquittal would show that the trial Court has noticed in detail

the material contradictions in the evidence of the complainant. Even, it was also found that there had been enmity between PW1 & PW3 (applicant-complainant) on the one hand and the accused on the other.

12. Even before, this Court, the learned counsel for the applicant could not refer to any piece of evidence so as to warrant interference in the impugned judgment of acquittal passed by the trial Court.

13. In view of the above, finding no merit in the present applicant, the same is dismissed. Leave to appeal is declined.

25.07.2023
ds

(HARNARESH SINGH GILL)
JUDGE

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