

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-1824-2019 (O&M)
Reserved on: 09.08.2023
Pronounced on: 18.08.2023

Raman Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Neeraj Yadav, Advocate for the petitioner.

Ms. Ankita Ahuja, AAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

CRM-23060-2019

Prayer in the application is for condonation of delay of 121 days in filing the revision petition.

For the reasons mentioned therein, the application is allowed. The delay of 121 days in filing the present petition is condoned.

CRR-1824-2019

1. Challenge in the present petition is to the judgment dated 12.09.2018 passed by the learned Sessions Judge, Gurugram, vide which the judgment of conviction dated 23.01.2017 and order of sentence dated 24.01.2017 passed by the learned Judicial Magistrate 1st Class, Gurugram, whereby respondent Nos.2 to 4 were convicted and sentenced, were set aside and respondent Nos.2 to 4 were acquitted of the charges framed against them.
2. Respondent Nos. 2 to 4 were tried for the offences under Sections 323, 324, 506 read with Section 34 IPC. FIR No. 260 dated

05.07.2011 under Sections 323, 324, 506 read with Section 34 IPC, was registered at Police Station, Palam Vihar, Gurgaon. As per the version of the complainant-petitioner contained in the FIR, his sister Hemlata got married to Satender on 07.12.2008; that soon after marriage, Satender and his parents had started harassing his sister; that faced with such a situation, Hemlata came to her parental home; that on 02.07.2011, she had delivered a male child; that on 03.07.2011 at about 7.00 p.m., Satender and his parents had visited the house of the complainant and started hurling abuses and Satender denied to adopt the newborn on the pretext that it was not his child; that when the complainant asked him to speak politely, Satender's parents got enraged and started beating the complainant; that Satender gave blows with a sharp-edged weapon on his neck and wrists, whereas his mother caught hold of the complainant from the back and Ram Kala gave a danda (wiper stick) blow on his head; that when the complainant cried for help, Narender came at the spot, but he was also given sharp edged weapon blow by Satender and that Ram Kala had given kick blow on the stomach of his sister.

3. On the basis of evidence led and after hearing the rival contentions, the learned trial Court vide judgment and order dated 23/24.01.2017, held respondent No.2-Satender guilty of the offence under Section 324 and respondent Nos. 3 and 4 guilty of the offence under Section 323 read with Section 34 IPC, whereas, all of them were acquitted of the offence under Section 506 IPC. Respondent No.2 was, accordingly, sentenced to undergo RI for a period of two years and to pay a fine of Rs.1000/-, whereas respondent Nos. 3 and 4, were sentenced to undergo RI for six months and to pay a fine of Rs.1000/- each.

4. Aggrieved against the judgment and order passed by the trial

Court, respondent Nos. 2 to 4 had filed an appeal before the Sessions Court. The learned Sessions Judge, Gurugram, vide judgment dated 12.09.2018, allowed the appeal and set aside the judgment and order passed by the trial Court.

5. Aggrieved against the judgment dated 12.09.2018, the petitioner/complainant has filed the present revision petition.

6. Learned counsel for the petitioner submits that while convicting and sentencing respondent Nos.2 to 4, the learned trial Court, had relied upon the testimony of the witnesses, but the learned Sessions Judge, Gurugram, had coined a new case, in favour of the said respondents and acquitted them by granting them benefit of doubt. It is further submitted that the finding of the learned trial Court that the prosecution had proved its case beyond reasonable doubt, has been totally brushed aside by the learned Appellate Court.

7. It is yet further submitted that the injuries suffered by the petitioner-complainant, were proved on record and merely because injuries on the person of Narender, who had come to the rescue of the petitioner, could not be proved, cannot be a ground to doubt the prosecution version against respondent Nos. 2 to 4. Still further, it is argued that when respondent Nos. 2 to 4 did not lead any evidence in their defence, there was no occasion for the Appellate Court to hold that they were not guilty of the offences committed by them.

8. On the other hand, learned State counsel has defended the judgment passed by the Appellate Court contending that the Appellate Court had relied upon the testimony of PW6-Narender, who was said to be one of the eyewitnesses of the occurrence and that though it was the case of the prosecution that said Narender had also received injuries in the occurrence,

yet no medical evidence of him was ever conducted.

9. I have heard the learned counsel for the parties and have also gone through the paper book.

10. The learned Appellate Court had taken into consideration the contradictions in the testimony of PW-4 Raman Kumar, complainant and PW-5 Hemlata and held that there were huge improvements in their statements. It was further found that as per the prosecution version, PW-6 Narender, came to the rescue of the petitioner and he too was given injuries by respondent No. 2, but no injury was proved on his person and even there was no MLR on record in this regard. It was, accordingly, found that the very role of the Investigating Officer was doubtful, as a minor dispute between the parties was converted into an assault case.

11. The relevant extracts from the judgment of the learned Appellate Court, would read as under:-

“20. Although, PW-6, Narender has been cited as a eye witness as well as injured but again there is no medical examination of PW-6 also although he alleged that he took Raman to the hospital and thus he was also at hospital and as such he can get himself medically examined and this fact alone shows that since there was no injury on his person and thus his alleged presence at the spot is also doubtful, specially when he is a friend of PW-4 as admitted by him, rather he tried to alleged that there was a wound of 3” on his chest which by no stretch of imagination can be a simple injury and must have been treated by a doctor with some proof, which is missing and raises serious doubt about presence of this person at the spot and being an eye witness and thus goes to prove that he has been introduced later on just to exaggerate the occurrence.

21. Thus the fact remains that the presence of the PW-6 stands excluded, whereas the stand taken by PW-4 and PW-5 is self contradictory and they both tries to improve the story by adding a knife which was never there. The delay leading to reporting the matter itself is sufficient to raise serious doubts about the role of

investigating officer, who converted a case of minor dispute between two parties related to each other, into an assault case involving sharp edged assault and then fully knowing that one of the appellants also suffered some injuries in the occurrence, she ignored that whereas that was itself sufficient to say that a minor altercation between PW-4 and appellant, Satender was exaggerated leading to multiple disputes whereas it being based on matrimonial dispute between husband and wife was required to be considered with utmost responsibility with an intention to reconcile the differences.

22. Be that as it may. Learned trial court somehow overlooked this aspect and relied upon one side's version without going into the root of the case and thus this court has no hesitation to say that the entire story of the complainant party is proved to be highly doubtful and not supported by any cogent and reliable evidence beyond reasonable doubt, rather, it is also contradictory to medical evidence on record and also not consistent with the story propounded so far as the alleged weapon used to cause alleged injuries and in the manner alleged. As such, conviction of the appellant is accordingly liable to be set aside being a case based on doubtful foundation and insufficient evidence."

12. The view taken by the Appellate Court is based on the evidence on record. Though delay in lodging the FIR, cannot be fatal, as the learned trial Court, had noticed the factum of the injured not being fit to give statement to the police, yet the other material aspects of the matter, have rendered the very case of the prosecution as doubtful. PW-5 Hemlata had deposed in her testimony that one Ishwar was also present at the spot and he along with PW-6 Narender took injured Raman Kumar to the hospital. But, said Ishwar was not examined as witness. The learned Appellate Court found that when PW-6 Narender took injured Raman Kumar to the hospital, and when it is the case of the prosecution that he had also received sharp-edged weapon injuries, he too could have got himself medically examined, but he had not done so. The said finding does not suffer from any material illegality.

The facts and circumstances on record clearly point out that the case of the prosecution was not beyond doubt and therefore, respondent Nos. 2 to 4 have rightly been acquitted by the learned Appellate Court.

13. Finding no merit in the present criminal revision petition, the same is dismissed.

18.08.2023
Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No