

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

CRR-2657-2015(O&M)

Date of Decision:-11.10.2023

Tarlok Singh.

.....Petitioner.

Vs.

Mauja Singh & Ors.

.....Respondent.

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

Present:- Mr. Naresh Kumar Manchanda, Advocate for the Petitioner.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner against the judgment dated 25.11.2014 passed by the Additional Sessions Judge, Ferozepur vide which the judgment of acquittal dated 05.03.2013 passed by Judicial Magistrate Ist Class, Ferozepur has been upheld.

2. The brief facts of the case are that FIR No.194 dated 23.12.2007 Police Station Mamdot under Sections 447 IPC came to be registered at the instance of Sada Singh Sarpanch against a number of accused with the allegations that they had unauthorisedly occupied the land belonging to the village Panchayat and had also occupied a passage which led to the cremation ground and the land of one Tarlok Singh son of Kapoor Singh. Pursuant to a detailed investigation the report under Section 173(2) Cr.PC was submitted under Sections 431 and 447 IPC against 07 persons namely, Mauja Singh, Karnail Singh, Mall Singh, Bagicha Singh, Joginder Singh, Mohinder Singh and Teja Singh.

3. During the course of the Trial, Mohinder Singh son of Mall Singh and Teja Singh son of Fagga Singh expired and the proceedings abated qua them. Pursuant to the conclusion of the Trial, the remaining 05 accused came to be acquitted vide judgment dated 5.3.2013 passed by the Judicial Magistrate, Ist Class, Ferozepur.

4. The person aggrieved namely, Tarlok Singh (PW-1) son of Kapoor Singh filed an appeal against the judgment of acquittal. During the pendency of the appeal Bagicha Singh son of Bagga Singh passed away. The other accused however came to be acquitted by the court of Additional Sessions Judge, Ferozepur vide judgment dated 25.11.2014.

5. The present revision petition has been preferred by the petitioner against the aforementioned judgments of acquittal.

6. The Counsel for the petitioner contends that the petitioner was a victim as respondents no.1 to 4 had forcibly occupied the passage which led to the land of the petitioner. The courts below had committed a material irregularity while acquitting them. The prosecution case had been proved beyond any reasonable doubt. The petitioner had been examined as PW-1 and had supported the prosecution case in material particulars. A reference had been made to an application which had been moved before the Revenue Officials against the blockage of his passage after which the passage had been restored to the petitioner. However, the respondent nos.1 to 4 along with other persons had again demolished the said passage and grown a wheat crop over the same. There was other evidence available which would show that the offence had been established beyond reasonable doubt. In fact the respondent nos.1 to 4 were very well placed and during the course of the Trial had won over the complainant Sada Singh, Sarpanch who had given a wrong statement before the Trial Court that the passage was open at the

spot whereas the passage had been blocked. He, therefore, contends that the respondents were liable to be convicted for the offences in question.

7. I have heard the counsel for the petitioner.

8. The allegations against the accused are that they had committed criminal trespass and had entered into the land belonging to the Panchayat by demolishing the boundary wall got constructed by the Patwari and Kanungo. Tarlok Singh was examined as PW-1 who stated that the passage had been blocked in the year 2005. He had moved an application regarding the said passage to the revenue department after which a demarcation had been conducted at the spot. However, apparently, there is no such application on the file placed by the prosecution as stated by PW-1. Further PW-4 Satpal, Patwari had stated that he had not participated in any demarcation of the passage. He has also admitted in his statement Ex.DA that at the time of demarcation the passage in dispute was not in possession of anybody and it was an open passage. He had also stated that he had never recorded any statement before the police other than the statement Ex.DA and the statement under Section 161 Cr.PC had been recorded by ASI Ashok Kumar on his own. He had also admitted that he had never participated in any spot inspection. Similarly, PW-5 SI Jagdish Lal has also admitted that he had never visited the spot during his investigation and section 431 IPC had been added without any document on record. Further PW-3 Sada Singh who is the complainant has not stated that the passage was in the possession of the accused persons. In fact, the evidence of PW-1 Tarlok Singh would suggest that there were cases pending between the parties. Thus, it is established that the passage in question was not in possession of the accused persons which is further supported by the deposition of PW-4 Satpal, Patwari.

9. In view of the above, I find no reason to interfere with the well-reasoned judgments of both the courts below and, therefore, the present petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

October 11, 2023
Vinay

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