

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

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CRR-2781-2015

Date of Decision: 31.07.2023

Balhar Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**Present:** Mr. Veneet Sharma, Advocate for the petitioner.

Mr. Sarabjit Singh, Advocate for the complainant.

Mr. Sandeep Kumar, DAG, Punjab.

AVNEESH JHINGAN, J. (Oral)

1. This revision petition is filed aggrieved of acquittal of the accused by the appellate Court vide impugned judgment dated 08.06.2015.

2. The brief facts are that the FIR was registered on the statement of Balhar Singh. He alleged that on 11.09.2010 there was an altercation between the mother of the complainant and the accused on account of throwing garbage in front of the gate. Ajit Singh tried to gave a *gandasi* blow on the head of the complainant and while defending injury was inflicted on middle finger and inner side of the left thumb of the left hand. Sandeep Singh and Nirmal Singh were attributed dang blows given to the mother of the complainant, his sister and sister in law. The trial Court convicted the accused on 13.10.2014 and vide order of the even date sentenced to undergo rigorous imprisonment for three years and to pay fine of Rs.1000/-. In default of payment of fine, they shall further undergo rigorous imprisonment for two weeks. In appeal, the accused were acquitted

3. Learned counsel for the petitioner submits that the appellate Court had not appreciated the evidence correctly. The delay in registering the FIR was not fatal. The contention is that though the doctor was not examined but the technician had identified the signature of the doctor.

4. Sarabjit Singh, Advocate for the complainant defends the impugned judgment.

5. The appellate Court considered that the incident was of 11.09.2010. Injured- Balhar Singh was declared fit on 17.09.2010, yet no statement was got recorded till 03.10.2010. It was noted that Dalbir Kaur and Gurnam Singh were not admitted in the hospital yet they had not made the statement for more than twenty days. There was no explanation explaining the delay. Ajit Singh has attributed single *gandasi* blow to the complainant whereas there were two injuries, on the one on the finger and other on the thumb of left hand, the story of the prosecution was found doubtful. It was taken into consideration that no doctor was examined to prove that the injuries sustained by the complainant were inflicted by a *gandasi* and the non-examination of the doctor had caused prejudiced to the accused.

6. The contention raised by learned counsel for the petitioner lacks merit. Dalbir Kaur and Gurnam Singh were eye-witnesses to the incident. As per the allegations Sandeep Singh and Nirmal Singh gave stick blows to the mother-in-law and sister-in-law of the complainant. These witnesses were neither medically examined nor got their statement recorded till 03.10.2010. This coupled with the fact that in the cross-examination PW-2 and PW-3 stated that police reached the place of occurrence at about 11:30 AM to 12:00 PM on the date of incident yet no statements were made. It is not

on his hand but as per the MLR there were two separate injuries on left hand, it created doubt on the story of the prosecution. The appellate Court rightly held that non-examination of the doctor caused prejudiced to the complainant party. The MLR was being relied upon without giving an opportunity to the complainant to cross-examine the doctor.

7. Supreme Court in **New India Assurance Co. Ltd. Vs. Krishna Kumar Pandey, 2020(1) Ori. Law Rev. 246** held as under:-

“8. The scope of the revisional jurisdiction of the High Court (or Sessions Court) under Section 397 Cr.P.C., 1973 is limited to the extent of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order passed by an inferior Court. The revisional Court is entitled to look into the regularity of any proceeding before an inferior Court. As reiterated by this Court in a number of cases, the purpose of this revisional power is to set right a patent defect or an error of jurisdiction or law.”

8. There is no factual or legal error much less perversity. No case is made out for interference in the impugned judgment dated 08.06.2015 passed by the Appellate Court.

9. The revision petition is dismissed.

(AVNEESH JHINGAN)
JUDGE

31.07.2023
Rajeev (rvs)

Whether speaking/reasoned	Yes
Whether reportable	Yes