

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

CRR-2195-2016(O&M)

Date of Decision:-08.08.2023

Harpal Singh.

.....Petitioner.

Vs.

State of Punjab & Ors.

.....Respondent.

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

Present:- Mr. Gurpreet Singh, Advocate for
Mr. Inderjeet Sharma, Advocate for the Petitioner.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner against the judgment dated 28.01.2016 passed by Additional Sessions Judge(A), Gurdaspur whereby the judgment of conviction dated 01.02.2013 passed by the Judicial Magistrate Ist Class, Gurdaspur was set aside and the accused were acquitted of the charges levelled against them.

2. The brief facts of the case are that the complainant Ram Singh, PW-1 got recorded his statement to the effect that on 26.-01.2007 on account of political rivalry, he was assaulted by Kamaljit Singh son of Jagir Singh, Malkit Singh son of Jagir Singh, Sucha Singh son of Buta Singh and Sonu. Based on his statement FIR No.12 dated 26.01.2007 under Sections 323, 326, 34 IPC was registered at Police Station Kahnuwan. As Sucha Singh passed away, the proceedings qua him abated. As regards Manpreet Singh, the case was sent to the Juvenile Court. Therefore, the charge in the present case against the respondent nos.2 & 3 came to be framed under Sections

323, 324, 326 and 34 IPC.

As many as 07 prosecution witnesses were examined during the course of Trial. Pursuant thereto the respondent nos.2 & 3 came to be convicted and sentenced vide judgment dated 01.02.2013 as under:-

Convicts-Kamaljit Singh & Malkiat Singh	Offence under Sections	Sentence Awarded
	323/34 IPC	Fine of Rs.1000/- each, in default of fine, further undergo SI for 10 days each
	324/34 IPC	Rigorous imprisonment for 02 years each and fine of Rs.500/- each and in default of payment of fine further undergo SI for 10 days each.
	326/34 IPC	Rigorous imprisonment for 02 years each and fine of Rs.500/- each and in default of payment of fine further undergo SI for 10 days each.

3. The convicts/accused (respondent nos.2 & 3) preferred an appeal before the court of Additional Sessions Judge, Gurdaspur. The Sessions Court came to the conclusion that the witnesses were discrepant in material particulars. No specific role had been attributed to respondent nos.2 & 3 and there had been a significant delay in the medical examination of Ram Singh-complainant. Therefore, vide judgment dated 28.01.2016 the Court of Additional Sessions Judge, Gurdaspur acquitted the respondent nos.2 & 3.

4. Against the said judgment of acquittal Harpal Singh son of Ram Singh -complainant has preferred the instant revision petition.

5. The Counsel for the petitioner contends that the impugned judgment dated 28.01.2016 is perverse, illegal and suffers from various infirmities. The guilt of the respondent nos.2 & 3 had been established beyond reasonable doubt by leading direct, positive and cogent evidence.

PW-1 Injured-complainant Ram Singh had been supported by the deposition

of PW-2 Sohan Singh and PW-3 Joginder Pal Singh. The medical evidence was totally in consonance with the ocular account and no material contradictions and inconsistencies had been pointed out. In fact the injuries on the persons of Ram Singh had been found to be grievous in nature as per PW-5 Dr. Jagjivan Lal. He therefore contends that the judgment of acquittal was liable to be set aside as it had been passed in a mechanical manner by misreading the material on the record.

6. I have heard counsel for the petitioner.

7. In the instant case, as per the prosecution story Malkiat Singh (respondent no.3) was armed with *datar*. Further as per the version of PW-1 and PW-2, Malkiat Singh was armed with *Daang*. Similarly Sucha Singh (since deceased) was armed with *kirpan* and he had given a blow of the same on the right leg of Ram Singh (PW-1). However, PW-2 Sohan Singh (purported eye witness) testified that Sucha Singh was armed with *kulhara* and he gave a blow of the same on the right leg of his brother-Ram Singh. No person by the name of Amarjit Singh was present at the time of occurrence and nor was any injury caused by him to Ram Singh. However, as per PW Ram Singh, Amarjit Singh had given a *datar* blow which struck his right arm whereas PW-2 Sohan Singh deposed that Amarjit Singh had given two *daang* blows which hit on the head of his brother Ram Singh. Thus it is apparent that the initial version of the prosecution is not in consonance with the statements of PW-1 and PW-2 recorded in court. In fact the statements of PW-1 and PW-2 are not even consistent with each other. This creates a doubt in the prosecution version moreso when in fact, none of the said witnesses have stated that the respondent nos.2 & 3 had caused any injury to Ram Singh-PW-1.

Further there is a substantial delay in the medical examination

of injured Ram Singh PW-1. As per the prosecution version, Ram Singh received injuries at 8.30 am whereas he was admitted to Primary Health Centre, Kahnuwan at 1.40 PM. This delay also creates a doubt in the prosecution case regarding the possibility of the injuries being fabricated and the consequent false implication of the respondent nos.2 & 3.

8. In view of the aforementioned facts and circumstances, I find no reason to interfere with the well reasoned judgment dated 28.01.2016 passed by the lower Appellate Court i.e. Additional Sessions Judge, Gurdaspur and the same is therefore upheld. Resultantly, the present revision petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

August 08, 2023
Vinay

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