

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

CRR-3434-2016(O&M)

Date of Decision:-07.08.2023

Rakesh Kumar.

.....Petitioner.

Vs.

State of Punjab & Ors.

.....Respondent.

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

Present:- Mr. Amit Sharma, Advocate for
Ms. Puja Chopra, Advocate for the Petitioner.

Mr. Kunwar Bir Singh, Assistant Advocate General, Punjab.

Mr. Aditya Jain, Advocate &
Mr. Rahul Vats, Advocate for respondent nos.2 & 3.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner against the judgment dated 03.05.2016 passed by Additional Sessions Judge, Patiala whereby the judgment of acquittal dated 11.02.2015 passed by the Sub Divisional Judicial Magistrate, Nabha has been upheld.

2. The brief facts of the case are that the complainant/PW-1 Rakesh Kumar (petitioner) got registered the instant FIR against the accused/respondent-Paras son of Amarjit Singh @ Sanju and Mangla wife of Amarjit Singh @ Sanju with the allegations that they had assaulted him (complainant), his wife PW-2/Ramla Rani and had scuffled with their daughters Neha and Jyoti on account of a family dispute. Pursuant to the registration of the FIR a report under Section 173(2) Cr.PC came to be submitted against respondents nos.2 & 3. During the course of the Trial

prosecution witnesses were examined and after conclusion of the evidence, the Trial Court while acquitting the accused found that PW-1 and PW-2 who were husband and wife had improved their versions in Court. They were discrepant in material particulars. No independent witness was examined despite availability of the same including the daughters Neha and Jyoti who had scuffled with the accused. Further the statement of the complainant had been recorded without any opinion having been obtained from the doctor. This fact assumed importance as PW-2 Ramla Rani wife of the PW-1 complainant had stated that the complainant had been unconscious throughout.

3. The appeal against the judgment of acquittal was preferred before the Court of Additional Sessions Judge, Patiala and the same also came to be dismissed vide judgment dated 03.05.2016 leading to the filing of the instant revision petition.

4. The Counsel for the petitioner contends that the Courts below have failed to take into account that that the petitioner had duly proved the injuries by way of medical evidence. Therefore the medical evidence was in consonance with the ocular account. The FIR had been registered promptly. Specific roles and injuries had been attributed to the respondent nos.2 & 3. The discrepancies, if any, were minor and undue importance had been given to them while acquitting the accused. He therefore, contends that the judgments of acquittal were liable to be set aside and the respondent nos. 2 & 3 ought to be convicted for having committed the offences in question.

5. The Counsel for the State has supported the contentions raised by the learned Counsel for the petitioner and contends that as the medical evidence was in consonance with the ocular account the judgments of acquittal were liable to be set aside.

6. The Counsel for the respondent nos.2 & 3 contends that the judgments of acquittal had been rightly passed. The grounds raised by the petitioner in the present petition had been dealt with comprehensively by the Trial Court and the lower Appellate Court. Therefore, there was no ground for interference by this Court and the present petition was liable to be dismissed.

7. I have heard counsel for the parties.

8. Admittedly, a combined reading of the statements of PW-1 Rakesh Kumar and PW-2 Ramla Rani recorded during the course of investigation and subsequently in court would show that they have improved their versions significantly. In fact as per PW-1 his son was present at the time of occurrence and had also received injuries whereas as per evidence of PW-2 Ramla Rani, her son was not present at home at the time of occurrence.

PW-1 stated that he was conscious when his statement was recorded by the police whereas PW-2 Ramla Rani who is none other than the wife of PW-1 has admitted in her cross examination that when the police had recorded the statement of her husband he was not conscious and in fact he had not given any statement regarding the occurrence but the police had recorded a part of the same. Moreover, PW-3 ASI Satnam Singh who is the investigating officer of the case had deposed that he had not obtained any opinion from the doctor before recording the statement of the complainant. Thus, the very veracity of the first information report becomes doubtful.

Despite availability of independent witnesses, none have been examined. In fact as per the evidence of PW-1 and PW-2 their daughters Neha and Jyoti had witnessed the occurrence and had also received injuries but have not been examined during the course of the Trial. This also makes

the prosecution case doubtful. In view of the fact that the version of PW-1 and PW-2 regarding the manner in which the occurrence took place is doubtful, the opinion of the doctor that the grievous injury on the person of the complainant being caused by a fall on a hard surface could not be ruled out cannot be faulted.

9. In view of the aforementioned facts and circumstances, I find no reason to interfere with the well reasoned judgments passed by the courts below and the same are therefore upheld. Resultantly, the present revision petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

August 07, 2023

Vinay

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