

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

238-CRR-2960-2017

Date of Decision: 14.02.2023

HARBANS KAUR

... Petitioner

VS.

STATE OF PUNJAB & ORS

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. SS Rang, Advocate for the petitioner

Mr. Mohit Chaudhary, AAG Punjab

Sandeep Moudgil, J. (Oral)

The instant revision petition is directed against the judgment of acquittal dated 12.05.2017 passed by the Additional District Judge, Ludhiana as well as the judgment dated 26.04.2014 passed by JMIC, Ludhiana.

Learned counsel for the petitioner has contended that the trial court has misread the evidence and has erroneously held that the petitioner was not in ownership/possession of the area over which the alleged occurrence took place. In support thereof, it is contended that the electricity meter has been installed in her name at the premises and, therefore, the offence of criminal trespass are apparently made out against the respondents No.2 to 4.

A perusal of the judgments impugned before this Court and on examination of the evidence as deposed by PW1 in her cross-examination particularly admitting the fact that the Court has held the petitioner not having any right over the property vide its judgment dated 25.04.2006. She deposed that Sukhwinder Kaur has not purchased any portion adjoining to her house from Jasbir Singh and Baldev Singh. Thereafter, she deposed that the portion

purchased is part and parcel of the plot in dispute. The complainant herself is not clear as to whether the disputed area is adjoining her house or the same is at a distance. Even otherwise, the case of the complainant is believed that her house adjoins the disputed area, then also, she has failed to explain as to why the same has not been included in the boundary of her house. Further, on perusal of the deposition of PW2 Rachhpal Singh son of the complainant, he has denied the happening of occurrence at all and stated that he was told regarding the said occurrence by his mother but the mother has not been examined as witness by the complainant-petitioner.

In the light of the aforesaid facts, there is no cogent material evidence or documentary proof produced by petitioner with regard to her possession/ownership over the disputed part of the area. Moreso, the basic ingredients showing her exclusive right over the said property so as to make out a case of criminal trespass is also missing and as such the prosecution has failed to establish the guilt of the respondents No.2 to 4 beyond any doubt.

This Court is of the considered view that the judgments passed by both the courts below are based on material and cogent evidence and the same does not warrant interference by this Court.

Dismissed.

14.02.2023

V.Vishal

1. *Whether speaking/reasoned?*
2. *Whether reportable?*

(Sandeep Moudgil)
Judge

Yes/No
Yes/No