

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

CRR-566-2018(O&M)

Date of Decision:-03.10.2023

Des Raj.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Prabhjot Singh, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The instant revision petition has been preferred by the petitioner/accused against the judgment dated 26.09.2017 passed by Additional Sessions Judge, Ferozepur vide which the judgment of conviction and order of sentence dated 14.01.2016 passed by Sub Divisional Judicial Magistrate, Guruharsahai has been upheld.

2. The present FIR was registered on the statements of Harbans Lal son of Kundal Lal who alleged that he was a resident of Amir Khas and was an agriculturist by profession. On 26.04.2010, Sumitra Rani, his wife had dumped garbage of their house towards one side of the street. The house of Amrik Singh son of Gurdial Singh was towards the front side of his (complainant's) house. Because of the collection of the garbage towards one side of the street, Gurmit Singh got enraged and started hurling expletives upon him (complainant) and his family. When he (complainant) came forward and tried to stop him from using foul language, Gurmit Singh

slapped him. He and Gurmit Singh entered into a scuffle. Harbans Lal Panch and Vijay Kumar son of Jot Ram and other passersby intervened and separated him and Gurmit Singh. Thereafter, both of them came back to their respective houses. At about 1.30 pm Amrik Singh, Gurmit Singh sons of Gurdial Singh, Sunil Kumar @ Bobby son of Jangir Chand, Des Raj (petitioner), Harkrishan Lal, Om Parkash sons of Daulat Ram, Pawan Kumar son of Om Parkash, Kewal Krishan son of Dial Chand, Jangir Chand all residents of Amir Khas and Chhinda son of Swaran Singh resident of Muktsar along with 10/12 other unidentified persons who were the relatives of Gurmit etc., came in front of the gate of his (complainant's) house. Since the gate was latched from inside, all of them started striking the gate with dangs and sotas and because of the thrust, the gate got unlatched and all the accused entered into his house. At that time, Sunil Kumar was holding .12 bore gun in his hands and he fired 2-3 shots in the air. Fearing imminent danger, he (complainant), his wife Sumitra Rani and daughter Rupinder Handa and his mother went inside a room and locked the same from inside. All the accused persons remained present on the spot for a considerable time and kept on hurling profanities upon him and his family members. In the meanwhile, he rang up the police and fearing their arrest, the accused ran away from the spot.

3. Pursuant to the registration of the FIR the report under Section 173(2) Cr.PC was submitted and on conclusion of the Trial, the petitioner-accused and his co-accused came to be convicted and sentenced as under:-

Name of Ac-cused	Offence	RI	Fine	In default of Fine
Amrik Singh	452 IPC	1 year	Rs.500/-	10 days
	148IPC 336/149 IPC	8 months		

		6 months		
Gurmit Singh	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Sunil Kumar	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336 IPC	6 months		
Des Raj	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Harjinder Singh	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Binder Singh	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Balkar Chand	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Dilbagh Singh	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Kartar Singh	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Harkrishan Lal	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Om Parkash	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		

	336/149 IPC	6 months		
Pawan Ku-mar	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Kewar Kris-han	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Jangir Chand	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		
Surinder Singh	452 IPC	1 year	Rs.500/-	10 days
	148 IPC	8 months		
	336/149 IPC	6 months		

All the sentences were ordered to run concurrently.

3. Three separate appeals came to be filed by the convicted accused bearing Criminal Appeal No.04 of 30.01.2016 titled as Des Raj Vs. State of Punjab, Criminal Appeal No.06 of 04.02.2016 titled as Harjinder Singh & Ors. Vs. State of Punjab and Criminal Appeal No.07 of 04.02.2016 titled as Amrik Singh & Ors. Vs. State of Punjab. They were all disposed of by a common order dated 26.09.2017. While 05 convicts namely, Harjinder Singh, Binder Singh, Balkar Chand, Dilbag Singh and Kartar Singh came to be acquitted, the conviction of 09 other accused was upheld and they were ordered to be released on probation. One convict, namely, Jagir Chand died during the course of proceedings.
5. The present revision petition has been preferred against the aforementioned judgment of conviction.

6. The Counsel for the petitioner contends that the petitioner was a Document/Deed Writer working in the Judicial Courts Complex, Jalalabad which was quite far from the place of the alleged occurrence. An interim order dated 26.04.2010 (P-1) passed by the Duty Magistrate showed that the presence of the petitioner had been marked as was evident from Ex.DX. Further, the petitioner had moved an application under Section 391 Cr.PC before the lower Appellate Court which had been allowed and the petitioner had proved the copy of the interim order dated 26.04.2010 and had tendered the same as Ex.A-1. Ex.DY had also been tendered in evidence which would corroborate the defence of the petitioner. However, the Trial Court and lower Appellate Court had not considered the *alibi* of the petitioner in its proper perspective. In fact the petitioner had been roped in because of his close association with convict Gurmit Singh and also because he was a *lambardar* of the village. No overt act had been attributed to the petitioner. The prosecution case was otherwise not believable as 15 persons duly armed had entered the house of the complainant but no injuries had been caused to him or his family members. Once 05 of the co-convicts of the petitioner have been acquitted by the lower Appellate Court, the petitioner also deserved the same benefit as his case was on a similar footing.

7. The Counsel for the State on the other hand contends that the case of the prosecution against the petitioner and his co-accused stands established beyond reasonable doubt. It is the categorical finding of the lower Appellate Court that Jalalabad, where the petitioner was working as a document writer was about 30-35 kms from the place of occurrence i.e. village Amir Khas and it was entirely possible that after attending the court proceedings the petitioner had reached the place of occurrence at 1.30 pm when the incident had taken place. He therefore contends that no fault could

be found with the judgments of the Trial Court and lower Appellate Court.

8. I have heard counsel for the parties at length.
9. The star argument of the petitioner is that he was present at the courts at Jalalabad which was evident from the order dated 26.04.2010 (Annexure P-1) in connection with FIR No.108 dated 3.8.2004 under Sections 420, 465, 468, 471, 120-B IPC Police Station City Jalalabad. However, it is the conclusive finding of the lower Appellate Court that the distance between the courts at Jalalabad and the place of occurrence i.e. village Amir Khas is not more than 30/35 kms. Therefore, the petitioner could very well have appeared in the Court in the morning and reached the place of occurrence by 1.30 pm. Even otherwise, the case of the prosecution qua the other convicted accused has been established beyond reasonable doubt and the convicted accused have already been granted the benefit of probation. Therefore, no interference is called for in the present case.
10. In view of the above, I find no reason to interfere with the well-reasoned judgments of the Trial Court as well as the Lower Appellate Court and therefore, the present petition stands dismissed.

(JASJIT SINGH BEDI)

JUDGE

October 03, 2023

Vinay

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