

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

CRR No.836 of 2018(O&M)
Date of Decision:24.04.2023.

Waseem

....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Hardeep Singh Dhillon, Advocate for
Mr. Arjun Atri, Advocate
for the petitioner.

Mr. Surender Singh, A.A.G., Haryana.

VIKRAM AGGARWAL, J. (ORAL)

CRM-8108 of 2018

Prayer in this application is for condonation of delay of 30 days in filing the revision petition.

Heard.

For the reasons mentioned in the application, the same is allowed subject to all just exceptions and delay of 30 days in filing the present revision petition is condoned.

CRR No.836 of 2018

1. Challenge in the present revision petition is to the judgment dated 17.04.2017, passed by the learned Chief Judicial Magistrate, Mewat, vide which respondents No.2 to 5 were acquitted of the charges framed against them and the judgment dated 09.10.2017 passed by the Additional Sessions Judge, Mewat, vide which the appeal filed against the said judgment, was dismissed.

2. The facts, briefly put, are that FIR No.325 dated 17.05.2023, under

(hereinafter referred to as IPC), at Police Station Nuh, District Nuh was registered against respondents No.2 to 5 at the instance of the complainant-Waseem. It was alleged that on 06.05.2013, when he was standing in the street in front of his house, he had exchange of hot words with respondents No.2 to 5, but the matter was settled with the intervention of neighbours. However, in the evening, at about 4/4.15 P.M., when he was playing in his house, respondents No.2 to 5 dragged him to the courtyard stating that they would teach him a lesson for abusing them. Hanif (Respondent No.4) gave a knife blow on his right arm and Jafru gave a stick blow on his back and one Mukim gave a punch blow on his nose. He fell on the ground and thereafter, other accused namely, Sattar Khan, Deepu and Raju (respondents No.2, 3 and 5) and some other persons came there carrying sticks in their hands and assaulted him. When his grand-father Majid and other members of his family tried to rescue him, injuries were also caused to them. He was rescued by the neighbours. While leaving, the accused threatened him that he would be killed. FIR was registered. Investigation commenced. On the completion of investigation, final report under Section 173 Cr.P.C., was submitted. Charges were framed and in the prosecution evidence, five witnesses were examined. No witness was examined in defence.

The trial Court acquitted the accused and appeal against the said order was dismissed by the Appellate Court, leading to the filing of the present revision petition.

3. Learned counsel for the petitioner has submitted that both Courts erred in acquitting the accused despite cogent evidence having been led by the prosecution. Reference has been made to the judgments and it has been contended that the Courts did not examine the matter from the correct perspective. It has been submitted that the doctor i.e., Dr. T.R. Parasher, who appeared as PW-4 had duly

deposed about the injuries suffered by the complainant, but still the Courts acquitted respondents No.2 to 5. It has been submitted that the judgments are not sustainable and deserve to be set aside and respondents No.2 to 5 deserve to be convicted.

I have considered the submissions made by learned counsel for the petitioner and have also perused the paper-book. The incident is said to be of 06.05.2013. The petitioner-Waseem appeared as PW-1 and deposed about the incident. In cross-examination, he stated that many persons had gathered at the spot at the time of the occurrence. However, none of these persons was examined as a witness. It was also admitted that no complaint was made to anybody initially and a complaint was submitted to the Police Station only two days after the incident. It was also admitted that the police never went to the spot. He also admitted that at the place of occurrence, only his grand-father and one Usman had come to the spot. Usman appeared as PW-5, but did not corroborate the version of the petitioner. He only levelled vague allegations of beating up of the petitioner by respondents No.2 to 5. He also did not claim himself to be an eye-witness, but stated that he had reached the spot two minutes after the incident. There is, therefore, a clear contradiction between the statements of PW-1 and PW-5. The grand-father of the petitioner did not step into the witness-box to depose about the incident. There were no corresponding injuries on the back etc., where the petitioner was stated to have been given stick blows. With regard to the incised wounds also, it was stated by PW-4-Dr. T.R.Parashar that the possibility of the said injuries being self inflicted, could not be ruled out.

It has to be borne in mind that the prosecution was required to prove its case against the accused beyond reasonable doubt and any dent in the case of the prosecution would give the benefit of doubt to the accused.

For the reasons aforementioned, both the Courts held that the prosecution had not been able to prove its case against the accused beyond reasonable doubt. The accused i.e., respondents No.2 to 5 were, therefore, rightly acquitted.

I have not found any infirmity in the findings recorded by the Courts. Even otherwise, it is settled law that Appellate Courts should be very slow in interfering in judgments of acquittal and judgments of acquittal should be reversed only if they suffer from perversity. Reliance in this regard can be placed upon the judgments passed by the Hon'ble Supreme Court in *Sadhu Saran Singh Vs. State of U.P. and others, 2016(2) RCR (Criminal) 319*, *State of Rajasthan Vs. Madan alias Madaniya, 2019 CrL.L.R.(S.C.) 09* and *Rabindra Kumar Pal alias Dara Singh Vs. Republic of India, 2011(2) SCC 490*.

I do not find any error in the judgments passed by the Courts below and the same are well reasoned, covering all aspects.

In view of the aforementioned facts and circumstances, I do not find any merit in the present revision petition and the same is, therefore, dismissed.

April 24th, 2023
Rekha

(VIKRAM AGGARWAL)
JUDGE

Whether speaking/reasoned : *Yes/No.*
Whether reportable : *Yes/No.*