

238 **IN THE HIGH COURT OF PUNJAB AND HARYANA**
AT CHANDIGARH
CRR-2868-2022 (O&M)
Date of Decision:09.10.2023

Jagdev Singh

...Petitioner

Vs.

State of Punjab and Others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Gurmeet Singh Saini, Advocate
 for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

N.S.Shekhawat J.**CRM-49537-2022**

1. The applicant/petitioner has moved the instant application under Section 5 of Limitation Act for condonation of delay of 155 days in filing the present revision petition.

2. For the reasons mentioned in the application, the minimal delay of 155 days in filing the present revision petition is condoned.

Main case

1. The petitioner has filed the present revision petition against the impugned judgment dated 10.02.2022 passed by the Court of Additional Sessions Judge, Sri Muktsar Sahib and the judgment dated 17.11.2018 passed by the Court of Judicial Magistrate Ist Class, Gidderbaha, Sri Muktsar Sahib whereby the respondents No.2 to 6 were ordered to be acquitted of the charge under Section 448,148 and 149 of IPC.

2. The FIR in the present case was recorded on the basis of the statement made by Jagdev Singh, petitioner, who stated that on the back side of

his house, house of Randhir Singh @ Dheera, respondent/accused was situated. On the right side of his house, there was a shamlat land, in which his uncle Lachman Singh was residing about 30 years ago and there was a vacant land of shamlat in front of that house, which was in his possession. At about, 08:00 AM on 10.03.2016, he along with his nephew Manjot Singh, his mother Mohinder Kaur and sister-in-law Amarjit Kaur were presented at his house and in the meantime, Randhir Singh @ Dheera, Sikander Singh, his cousins Amandeep, Jagpreet Singh and Manpreet Singh armed with *kahi* and *sabbals* entered in their land, while abusing them. They also started demolishing the room. The petitioner along with his nephew Manjot Singh, mother and sister-in-law tried to stop them, but they had demolished the room and fled away from the spot. The motive behind the occurrence was that the accused wanted to construct street by demolishing the said room and the said allegations led registration of the FIR under Section 448,148,149 of IPC.

3. Learned counsel for the petitioner contended that the Courts had completely overlooked the evidence led by the prosecution in the present case. There was sufficient evidence to show that the property in question was in possession of the petitioner and his family members. The testimony of PW-1 Jagdev Singh was duly corroborated by the testimony of PW-2 Manjot Singh and PW-3 Mohinder Kaur. The prosecution had fully proved the version of the FIR and the allegations of the complainant and the Courts had wrongly observed that the prosecution had failed to prove the ownership or possession of the complainant over the disputed land. Learned counsel further contended that there was sufficient oral and documentary evidence to prove the long and continuous possession of the complainant over the land in question and the

impugned judgments are legally unsustainable.

4. On the other hand, learned State counsel submitted that from the prosecution evidence, the offence under Section 448,148,149 of IPC stood proved against the respondents. The testimony of PW-1 Jagdev Singh was duly corroborated by the statements of PW-2 Manjot Singh and PW-3 Mohinder Kaur. Learned State counsel also submitted the submissions made by learned counsel for the petitioner.

5. After hearing the rival contentions made by learned counsel for the parties and also having gone through the record in the case law, this Court is of the considered opinion that there is no merit in the present petition. The respondents in the present case were charged for committing the offence punishable under Sections 448,148,149 of IPC. To prove the case, the prosecution examined its most material witness PW-1, Jagdev Singh, petitioner/complainant, who categorically stated in his testimony that the land was a shamlat land. His uncle Lachman Singh, had been residing in the said land and had also constructed a room in that land. The said room was allegedly demolished by the respondents. However, while appearing as PW-1, the present petitioner completely failed to prove the ownership as well as possession of the complainant or Lachman Singh on the said piece of land. No document was exhibited by the complainant side to show the possession over the land in question. Since the basic ingredient of the possession and the demolishing of the room by the accused could not be proved, there was no question of assembling of a unlawful assembly at the place of occurrence. Thus, the Courts below had correctly stated that the basic ingredients of the offence in the present case were completely missing.

6. I have gone through the judgments passed by the Courts and finds no material irregularity or perversity in the impugned judgments. Both the Courts have discussed the evidence led by the complainant/petitioner in detail and after due appreciation of the evidence and case law, the respondents have been rightly acquitted. Even otherwise, concurrent findings have been recorded by the Courts and there is no ground to interfere with the said findings by this Court. Accordingly, the present petition is ordered to be dismissed.

09.10.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No