

**241 IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

CRR-253-2023(O&M)

Date of Decision: 17.05.2023

Daljit Singh

...Petitioner...

Versus

State of Punjab and others

...Respondents...

CORAM:- HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr. Mohd. Yousaf, Advocate
for the petitioner.

HARKESH MANUJA, J.

1. Challenge in the present revision petition is to the judgment dated 18.10.2022 passed by the court of learned Additional Sessions Judge, Jalandhar, whereby the appeal filed against the judgment of acquittal dated 16.01.2018 passed by the court of Sub-Divisional Judicial Magistrate, Nakodar, was dismissed, thereby upholding the same.

2. Facts of the case are that respondents No.2 to 4 were arrayed as accused in FIR No.102 dated 15.05.2012, under Sections 447, 427, 511, 506 and 34 IPC, registered at Police Station Nakodar, with the allegations that on 15.05.2012 at about 6:00 p.m. in the area of village Tahli, PS Nakodar, they in furtherance of common intention committed criminal trespass by entering into the fields of complainant-Daljit Singh and caused loss to fields and also threatened him. During investigation accused were arrested and after completion of the investigation report under Section 173 Cr.P.C.

was presented in the Court of Id. trial court against respondents No.2 to 4-accused.

3. After scrutinizing the report under Section 173 Cr.P.C. and the documents annexed with it, respondents No.2 to 4-accused were charge-sheeted to face trial under Sections 447, 427 and 506 IPC, to which they pleaded not guilty and claimed trial. The prosecution led its evidence to substantiate the charges framed against them and after perusal of material evidence brought on record as well as legal factual position, the trial court acquitted respondents No.2 to 4-accused.

4. Feeling dissatisfied with the acquittal of private respondents by the Id. trial court, the complainant preferred an appeal before Id. Additional Sessions Judge, Jalandhar but the same was also dismissed. Hence, the instant revision petition.

5. The contention of learned counsel for the petitioner is that the Id. trial court as well as lower appellate court have committed grave error while extending the benefit of doubt and acquitting the private respondents-accused, especially, in view of the fact that Darshan Singh and Lakhvir Singh were owners in exclusive possession of the land in dispute and since, they were residing abroad, they have given the land in dispute to the petitioner on lease and executed registered power of attorney in his favour, which was proved on record as Ex.PW1/A. In order to prove his case, petitioner appeared into the witness box as PW-1 and proved the allegations levelled in the FIR as per the prosecution story, which further got corroboration from the deposition of Jasvir Kaur, who happens to be wife of

complainant, the same has been illegally ignored and disbelieved by both the courts below that too without assigning any cogent reason.

6. I have heard learned counsel for the petitioner and gone through the paper book.

7. No doubt, the prosecution has examined as many as 5 witnesses including complainant-Daljit Singh PW-1 but here, it would be pertinent to mention that the complainant himself stepped into the witness-box as PW-1 and he in his cross-examination admitted the fact that he has taken the land on theka but he has failed to produce any document in this regard. He has also shown ignorance regarding the registration number of the tractor which was allegedly used by the accused for ploughing the fields and also admitted the fact that accused were not driving the tractor and were merely standing on other fields, this admission on his part itself shows that accused never trespassed into the fields of complainant. Moreover, neither in the GPA (Ex.PW1/A), the detail of the land has been mentioned nor any document has been placed on record on the basis of which, it can be ascertained that the donor of the GPA owned any land, especially, the same which is allegedly a subject matter of the dispute. Thus, it can be safely concluded that there is no evidence what to say of any cogent or convincing evidence adduced on record by the prosecution that private respondents-accused, trespassed into the land in question and ploughed the crop sown by the petitioner.

7. Thus, this Court is of the considered view that respondents No.2 to 4 have rightly been acquitted by the Id. Sub-Divisional Judicial Magistrate, Nakodar and further that their acquittal has been rightly

affirmed by the Id. Additional Sessions Judge, Jalandhar. Moreover, it is also well established that accused is presumed to be innocent unless the charges are framed against him and with his acquittal, his innocence stands fortified. In the case in hand, the acquittal of respondents No.2 to 4-accused has also been affirmed by Id. Additional Sessions Judge, Jalandhar, thus, this Court does not find any merit calling interference in the instant revision petition.

8. In the light of what has been discussed herein above, this Court does not find any merit in the instant revision petition. As such, the same stands dismissed whereby the impugned judgments passed by both the courts below are upheld.

17.05.2023
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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No