



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

281

CRR-808-2019 (O&M)
Date of decision: November 11th, 2024

Amit @ Raju
.....Petitioner

Versus

State of Haryana
.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Renu Bala Sharma, *Amicus Curiae*
for the petitioner.

Mr. Yuvraj Shandilya, Assistant Advocate General,
Haryana.

MANJARI NEHRU KAUL, J.

CRR-11173-2019

Prayer in this application is for condonation of delay of 25
days in filing the petition.

For the reasons mentioned in the application, the same is
allowed.

Delay of 25 days in filing the petition stands condoned.

CRR-808-2019

Learned *amicus* for the petitioner has impugned the
judgment of conviction dated 25.01.2017 and order of sentence dated
31.01.2017 passed by learned Sub Divisional Judicial Magistrate, Kosli,
which was later upheld by learned Additional Sessions Judge, Rewari,
vide judgment dated 03.12.2018.

2. In the FIR, complainant-Satinder (PW2), reported that on
09.02.2021, during the wedding celebrations of his cousin Supriya at



CRR-808-2019 (O&M)

-2-

around 7:30 PM, accused-Om Prakash alias Omi along with Bhajan Lal alias Bhajju arrived wielding iron rods. They were accompanied by 5-6 other persons, and collectively, they assaulted the complainant and his uncle Satya Prakash, before fleeing with a bag containing the money received during *kanyadan* and an additional ₹5500/- that the complainant had collected as a donation for a Gaushala. The accused also extended threats of dire consequences to the complainant and his uncle. Responding to their cries for help, Maan Singh, Bahadur Singh, Raj Kumar and Yogender Singh arrived at the scene and took the injured persons to Government Hospital, Kosli, from where they were referred to Government Hospital, Rewari.

3. Based on the above allegations, FIR No.22 was registered on 10.02.2011 at 7:13 PM at Police Station Kosli, under Sections 148, 149, 323, 452 and 506 of the IPC. The accused was subsequently charged, prosecuted and convicted by the trial Court, and thereafter their conviction was also upheld by the First Appellate Court vide orders dated 25.01.2017 and 03.12.2018 respectively. Petitioner-Amit alias Raju was convicted and sentenced as follows:

Offence(s) u/s	Period of sentence(s)	Fine imposed	Period of sentence in default of payment of fine
148 IPC	R.I. for 2 years	₹2,000/-	2 months
323 r/w 149 IPC	S.I. for 1 year	₹1,000/-	1 month
452 r/w 149 IPC	R.I. for 3 years	₹5,000/-	3 months

The sentences awarded to the petitioner were ordered to be run concurrently.



CRR-808-2019 (O&M)

-3-

4. Learned counsel for the petitioner has made the following submissions:-

(i) that the FIR was lodged more than 24 hours after the incident, allowing ample time for possible embellishments and fabrications. Notably, petitioner Amit's name does not appear in the FIR, despite the incident reportedly taking place on 09.02.2011, at around 7:30 PM, with the FIR being registered only on 10.02.2011, at approximately 7:13 PM;

(ii) that no specific role has been assigned to petitioner in the FIR or subsequent accounts;

(iii) that the investigation carried out by PW-10 ASI Parmanand (Investigating Officer) and PW-13 Des Raj, failed to recover either the stolen money or any weapon from the petitioner or any of the co-accused. This lack of corroboration undermines the statement/allegations levelled by the complainant and those of the other prosecution witnesses, rendering the case of the prosecution unsubstantiated;

(iv) that as per the allegations in the FIR, the accused stole the *kanyadan* money and ₹5500/- collected for charity; however, the trial Court did not frame any charges to the said effect. This omission suggests that the alleged motive for the assault or robbery attributed to the petitioner and co-accused was not substantiated from the beginning of the investigation, which is why no charges for robbery/theft were included in the FIR or the charge-sheet. Consequently, the alleged

motive for theft/robbery apparently is baseless from the outset;

**CRR-808-2019 (O&M)****-4-**

(v) that since the primary allegation of the complainant of theft/robbery was neither substantiated during the investigation nor formally charged, the credibility of the entire allegations levelled by the complainant collapses, casting doubt on the account put forth by the prosecution and making it evident that it was a fabricated narrative;

(vi) that interestingly, the Appellate Court observed in para 24 of the impugned judgment that it was the responsibility of the accused to demonstrate any motive that the complainant might have had to falsely implicate the accused. This shifting of the burden of proof, rather than resting on the prosecution to prove its case, is noteworthy and, totally inappropriate; it is not only untenable in law but even contrary to the well settled principles of criminal law jurisprudence as the prosecution is required to stand on its own legs;

(vii) that in the instant case, the prosecution miserably failed to prove its allegations against the petitioner beyond a shadow of reasonable doubt so much so even the evidence led against the present petitioner, even on assumptions does not prove the case of the prosecution.

5. *Per contra*, learned State counsel has submitted that the petitioner has been rightly convicted by the Courts below as he along with co-accused inflicted multiple injuries on the person of the complainant as well as his uncle, which was duly corroborated by the evidence led during trial. Still further, it has been submitted that no credible evidence was led by the petitioner to explain as to why the complainant would falsely implicate him in the present case.



CRR-808-2019 (O&M)

-5-

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record and as per which, the petitioner has already served his sentence.

6. I have heard learned counsel for the parties and perused the relevant material on record.

7. A perusal of the material on record and the evidence led reveals that the petitioner was part of an unlawful assembly comprising of 5-6 persons, including Om Prakash alias Omi and Bhajan Lal alias Bhajju, who collectively inflicted injuries on the complainant and his uncle, the injured witness. Furthermore, the assembly robbed the complainant, taking away a bag containing cash. The injuries sustained by both, the complainant as well as injured witness Satya Parkash have been fully corroborated by the medical evidence and the deposition of PW-1 Dr. Chitranjan.

8. The mere statement by PW-1 Dr. Chitranjan that the possibility of the injury resulting through a fall on a hard surface could not be ruled out does not suffice to discredit the case of the prosecution or disregard the incident in question. This is especially so given that the petitioner did not lead any evidence to challenge or dismantle the narrative of the prosecution in the said regard.

9. It is also pertinent to note that although the petitioner was not initially named in the FIR in question and his name surfaced later during the investigation, this factor alone would not enure to his benefit. Since both, the complainant PW-2 and the injured witness PW-4 Satya Parkash identified the petitioner during their testimonies while



CRR-808-2019 (O&M)

-6-

stepping into the witness box before the trial Court, providing unambiguous support for the case of the prosecution. Additionally, all material witnesses corroborated the version of the prosecution in its entirety.

10. PW-12 Yogender Singh, another eyewitness to the incident in question, also fully supported the case of the prosecution. The contention of the learned counsel for the petitioner that PW Yogender Singh’s testimony is unreliable due to his familial relationship with the complainant is unconvincing and cannot be a valid ground to disbelieve his evidence.

11. The learned counsel for the petitioner persistently argued that the petitioner had been falsely implicated in the present case; however, the onus was on him to substantiate this claim with credible evidence, which he failed to provide. No plausible or convincing explanation was offered by the petitioner to demonstrate why the complainant would falsely implicate him in the instant case.

12. As a sequel to the above, this Court does not find any merit in the present revision petition. Accordingly, the revision petition stands dismissed.

November 11th, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No