

CRR-1240-2019

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRR-1240-2019

Date of Decision:- 02.05.2024

SUKHCHAIN SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB & OTHERS

.....Respondents

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

Present:- Mr. Surinder Garg, Advocate
for the Petitioner.

Mr. Baljinder Singh, DAG, Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been preferred against the judgment dated 25.01.2019 passed by the Sessions Judge, Faridkot whereby the accused/respondent Nos.2 and 3 have been acquitted of the charges framed against them.

2. The brief facts of the case are that an FIR No.65 dated 25.04.2009 was registered at the instance of the petitioner/complainant under Sections 467/380/411 IPC, P.S. Sadar Faridkot District Faridkot with the allegations that on the night intervening 21/22.05.2009, he had seen the private respondents escaping from his house after climbing over the wall. On the examination of his room, he found that there was a hole in the roof of the room and his iron box was lying open. On checking the same, he found that his purse containing gold ornaments, two mobile phones and Rs.10,000/- had been stolen.

3. The respondent Nos.2 and 3 faced trial and were convicted for having committed the offences under Sections 457/480 IPC and were

awarded RI for two years, fine of Rs.500/- and 2 months in default of payment of fine under both the offences. However, they came to be acquitted for the offence under Section 411 IPC.

4. The accused/respondent Nos.2 and 3 filed an appeal before the Sessions Judge, Faridkot against their conviction whereas the complainant/petitioner filed an appeal against the acquittal of the accused/respondent Nos.2 and 3 under Section 411 IPC and enhancement of their sentences.

5. All the three appeals were decided by the Sessions Judge, Faridkot vide judgment dated 08.01.2013. While the accused/respondent Nos.2 and 3 were acquitted of the charges framed against them, the appeal filed by the complainant/petitioner for enhancement of the sentences came to be dismissed. The copy of the said judgment dated 08.01.2013 is attached as Annexure P-1 to the petition.

6. Thereafter, the petitioner/complainant challenged the aforementioned judgment by filing CRR-873-2013. This Court vide judgment dated 16.05.2017 remanded the case back for a fresh adjudication on merits. The copy of the said judgment of this Court dated 16.05.2017 is attached as Annexure P-2 to the petition.

7. On remand the Appellate Court vide its judgment dated 25.01.2019 again allowed the appeals of respondent Nos.2 and 3 and dismissed the appeal filed by the petitioner/complainant.

8. The aforementioned judgment dated 25.01.2019 is under challenge in the present petition.

9. The learned counsel for the petitioner contends that the

Appellate Court had wrongly come to the conclusion that there had been a delay in the registration of the FIR. In fact, the FIR had been registered only when the Sarpanch had failed to take any action against respondent Nos.2 and 3 and therefore, the delay stood well explained. The discrepancies referred to by the Appellate Court were minor in nature and did not substantially affect the merits of the case. In fact, the evidence had not been appreciated in its proper perspective.

10. On the other hand, the learned State counsel has supported the case of the petitioner/complainant and states that there was ample evidence on record to uphold the conviction recorded by the Trial Court.

11. I have heard the learned counsel for the parties.

12. A perusal of the record would reveal that the theft had allegedly taken place on the night intervening 21/22.05.2009 at about 03.00 AM and the FIR had been got recorded on 24.05.2009 at 05.30 PM. Once the accused were identified by the complainant/petitioner at the spot and they had been named in the FIR, the delay in the registration of the same is fatal to the case of the prosecution case. Though, the complainant/petitioner-Sukhchain Singh has stated in his original complaint that he had informed the Panchayat regarding the theft committed by the accused/respondent Nos.2 and 3 on 22.05.2009 a fact which he has reiterated as PW1, Tarsem Singh, Sarpanch while deposing as DW1 as stated that the complainant had not disclosed the name of the accused and he had stated that someone else had committed theft in his house. It was only later that respondent Nos.2 and 3 had been implicated at the instance of Jagtar Singh and Pritam Singh, Ex.-Sarpanch who belonged to the other

faction in the village. PW4/Bashir Singh has admitted to the enmity between Tarsem Singh and Jagtar Singh as well as Pritam Singh, Ex.-Sarpanch and has also admitted that he belonged to the faction of Jagtar Singh and Pritam Singh, Ex.-Sarpanch. It is also evident from the record that the statement of Tarsem Singh was never recorded under Section 161 Cr.P.C. and nor was he joined in the investigation. Therefore, it is apparent that the prosecution case of Sukhchain Singh informing the Panchayat of the occurrence and the names of the accused on the next day is baseless thereby leaving the delay of two days in recording the FIR unexplained. Further, the recovery has also not been proved beyond reasonable doubt. In fact, H.C. Jagsir Singh who had allegedly effected the recoveries has not been examined as a prosecution witness. ASI Balvir Singh is also not a witness of recovery. There are several discrepancies in the statements given by Bashir Singh (PW4) and in the absence of the evidence of the I.O. HC Jagsir Singh who had arrested both the accused/respondent Nos.2 and 3 and had got effected the recoveries on the basis of their disclosure statements, the evidence of Bashir Singh (PW4) is to be considered with a pinch of salt.

13. In view of the aforementioned discussion, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

02.05.2024
JITESH

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>