

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.1129 of 2019 (O&M)
Date of decision: 11th September, 2024

Sohrab & others
... Petitioners

Versus

State of Haryana
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sarfuddin Shams, Advocate for the petitioners.
(through VC)

Mr. Yuvraj Shandilya, Asst. Advocate General, Haryana
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. The petitioners have challenged the judgment of their conviction and order of sentence dated 06.08.2016 passed by the Court of learned Judicial Magistrate 1st Class, Faridabad which was affirmed by the appellate Court of learned Additional Sessions Judge, Faridabad vide its judgment dated 25.04.2019. Vide judgment dated 06.08.2016, the petitioners were convicted and sentenced as under:

Section(s)	Punishment
323/149 IPC	Six months rigorous imprisonment to the convicts alongwith IPC fine of Rs.250/- each, in case of non-payment of fine, the convicts shall further undergo simple imprisonment of 10 days
325/149 IPC	One year rigorous imprisonment to the convicts alongwith fine of Rs.500/- each, in case of non-payment of fine, the convicts shall further undergo simple imprisonment of 10



	days.
427/149 IPC	One year rigorous imprisonment to the convicts alongwith fine of Rs.500/- each, in case of non-payment of fine, the convicts shall further undergo simple imprisonment of 10 days.
147/149 IPC	One year rigorous imprisonment to the convicts alongwith fine of Rs.250/- each, in case of non-payment of fine, the convicts shall further undergo simple imprisonment of 10 days.

2. At the outset, learned counsel for the petitioners submits that petitioner No.1 Sohrab and petitioner No.4 Habib have since expired and hence they would not press the petition qua them. Learned State counsel has not disputed the abovesaid fact and placed on record the death certificates of petitioners No.1 and 4.

3. Learned counsel for the petitioners submits that the FIR was registered on 16.07.2009, following an unexplained delay of 8 days after the alleged occurrence, which took place on 09.07.2009. This delay casts serious doubts on the authenticity of the version put forth by the prosecution. Learned counsel for the petitioners further contends that the FIR was filed solely to exert pressure on the accused/petitioners to settle a civil dispute pending between the parties, a fact that has been duly admitted by the prosecution witnesses. Moreover, aside from the statements of the complainant and the injured witnesses-both of whom are interested parties with long standing enmity towards the petitioners due to the civil dispute-there is no material evidence implicating the



petitioners in the occurrence in question. Learned counsel for the petitioners has also pointed out to the material discrepancies in the testimonies of the prosecution witnesses, particularly concerning the time and the place of the alleged occurrence. It has been argued that the case of the prosecution is further weakened by the statements of the two revenue officers i.e. Mukhtiar Singh, Halqa Patwari and Ajay Kumar, Kanoongo, who were allegedly present at the time of the occurrence but did not corroborate the version of the prosecution. It has been argued that these officers did not level any allegations much less by way of a whisper against the petitioners, nor did they state that the petitioners inflicted any injuries on the complainant or any other person.

4. Learned counsel has thus, asserted that the conviction handed down by the learned trial Court, which was later affirmed by the learned appellate Court, was based on conjectures and surmises, and that the evidence had not been properly appreciated by the either Court.

5. Per contra, learned State counsel while opposing the submissions made by the learned counsel for the petitioners, has argued that there was no inordinate delay in reporting the incident to the police. As per the learned State counsel, the complainant and the injured were immediately taken to the hospital after the occurrence in question, where they were then medico-legally examined and treated for the injuries sustained by them at the hands of the petitioners and other accused. Furthermore, both the complainant and the injured witnesses supported



the case of the prosecution when they testified in Court, identifying the petitioners and providing detailed descriptions of the role they played in the occurrence in question. Furthermore, the medical evidence on record corroborates the ocular testimonies, particularly the injuries detailed in the medico-legal reports of the injured.

6. Learned State counsel further submits that the failure of the revenue officers to identify the petitioners is not sufficient to discredit the testimonies of the injured witnesses, especially since the revenue officers did not deny the occurrence or the fact that the complainant and the injured party had sustained injuries during the incident.

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

8. After hearing the arguments of the parties, although the learned counsel for the petitioners emphasized that there was a delay in lodging the FIR, he was unable to dispute the fact that the complainant and the injured were immediately taken to the hospital after the incident and were examined by the doctors on the same day. Both the complainant and the injured, while testifying as PW-2 and PW-4 respectively, fully supported the case of the prosecution and specifically testified that the petitioners, along with the other accused, assaulted them, resulting in the complainant sustaining a fracture on his right hand. These injuries, including the fracture, though sustained by PW-4,



are corroborated by the medical evidence on record including the MLR (Ex.PW-7/B) and x-ray report (Ex.PW-8/A).

9. Additionally, the testimonies of PW-3 Mukhtiar Singh, Halqa Patwari and PW-5 Ajay Kumar, Kanoongo, while not directly identifying the accused, support the case of the prosecution to a large extent as they clearly testified about the assault on the complainant party and the injuries they sustained. In the light of the above, the prosecution has successfully proven its case against the petitioners beyond a reasonable doubt. The revision petition, being without any merit, stands dismissed. The CJM/trial Court is directed to issue warrants of petitioners to serve out the remaining part of sentence.

(MANJARI NEHRU KAUL)
JUDGE

September 11, 2024
rps

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No