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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No. 1474 of 2016 (O&M)
Date of Decision: 13.02.2024

Gurpiar SinghPetitioner

Versus

Kapoor Singh and othersRespondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. S.S. Grewal, Advocate
for the petitioner

Mr. Manjot Singh Tiwana, Advocate
for Mr. Arshdeep Singh, Advocate
for respondents No. 1 to 3

Mr. H.S. Deol, Senior DAG, Punjab
for respondent No. 4

HARPREET SINGH BRAR, J. (ORAL)

CRM-12410-2016

This is an application under Section 5 of the Limitation Act, 1963 read with Section 482 of the Cr.P.C. seeking condonation of delay of 99 days in filing the instant revision petition.

For the reasons mentioned in the application the same is allowed and delay of 99 days in filing the instant revision petition, stands condoned.

CRR-1474-2016

1. This revision has been preferred against the judgment dated 30.09.2015 passed by learned Additional Sessions Judge, Mansa whereby the judgment of acquittal dated 02.06.2010 passed by learned Sub Divisional

Judicial Magistrate, Sardulgarh in FIR No. 117 dated 29.10.2003 under Sections 452, 326, 325, 324, 323, 34 of the IPC registered at Police Station Jhunir, was upheld.

FACTUAL BACKGROUND

2. Briefly, the facts are that on 28.10.2003, around 7:30 AM, the petitioner-complainant was at the bus stand of his village, which is 10/15 karam from the house of Kapoor Singh, respondent No.1-accused, who is his uncle. When the petitioner's brother Suraj Singh and nephew Jaswant Singh reached the house of respondent No. 1 on their bullock cart, respondent No.1 raised lalkara using filthy language, stating that they must be taught a lesson for getting possession of the plot. Respondent No. 3-Jagtar Singh, armed with soti and respondent No. 2-Gurbax Singh, armed with axe came out of their house and engaged in a scuffle with Suraj Singh. The petitioner rushed to rescue him and respondent No. 3 gave a soti blow which hit his left ring finger. Respondent No. 2 gave a gandasi blow which hit the petitioner's left little finger and another blow which landed on the upper lip of his mouth.. Respondent No. 1 picked a brick bat lying nearby and threw it towards the petitioner which hit the back side of his head. The petitioner and his brother raised hue and cry causing the accused to go back to their house along with their respective weapons. The scuffle was motivated by a dispute regarding ownership of a plot. While this Court had granted stay, the respondents continued to place dung cakes and plant trees in the said plot. An FIR was already registered against the complainant party on the statement of respondent No.1 and this is a corss-version of the same.

3. The prosecution examined as many as 7 witnesses to establish its case. The respective statements of the accused under Section 313 of the Cr.P.C.

were recorded wherein they denied all the incriminating evidence put to them and claimed false implication and examined two witnesses in their defence.

4. On assessing the material available on record, the learned trial Court vide judgment and dated 02.06.2010 acquitted the respondents-accused. Aggrieved by the judgment of conviction, the petitioner preferred an appeal before the learned lower Appellate Court which was dismissed vide judgment dated 30.09.2015.

CONTENTIONS

5. Learned counsel for the petitioner contends that the Courts below have failed to frame charges regarding specific and distinct issues causing great prejudice to the petitioner. The learned trial Court has accepted that the petitioner has received grievous injuries at the hands of the respondents. The genesis of the scuffle lies in a dispute regarding property regarding which CWP-12164-1995 has been filed by the father of the petitioner, which is pending before this Court, however status quo has been granted regarding possession. Furthermore, version put forward by the respondents is based on statements of interested witnesses who are related to each other and the same is not corroborated by an independent witness. Even the oral evidence does not corroborate the medical evidence. Both the learned Courts below have failed to appreciate that the petitioner and his companions have also received multiple injuries at the hands of the respondents.

6. *Per contra* learned counsel for the respondents submits that the respondents have been acquitted by the learned trial Court and the learned lower Appellate Court based on correct appreciation of facts and law, and as such does not warrant any interference by this Court.

OBSERVATIONS AND ANALYSIS

7. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that in his cross-examination, PW2-Suraj Singh has admitted that the disputed plot was in possession of respondent No.1 since 1995 and the petitioner and his companions were obstructing the respondents from placing dung cakes and firewood there. A copy of khasra girdawari (Ex. DB and Ex. DC) have been placed on the record to prove the possession of the said plot by respondent No. 1, which strengthens the case of the respondents that the petitioner and his companions were the aggressors. In fact, the petitioner, Suraj Singh and Darshan Singh have been convicted by the learned trial Court for inflicting injuries on the respondents vide judgment dated 02.06.2010.

8. Furthermore, the alleged incident took place around 7:00/7:30 AM but the injured was only admitted to the hospital at 3:10 PM, as stated in the MLR (Ex. PW4/A). No explanation is forthcoming from the side of the petitioner with respect to the said delay. Also, no injury was recorded by PW4-Dr. Sohan Lal Arora that could have been inflicted by a sharp edged weapon. While the petitioner claimed to have received an axe blow on the little finger of his left hand, the MLR only indicates an incised wound. Therefore, the medical evidence does not corroborate the ocular version. Additionally, the petitioner (PW1), who claimed to have been at the bus station, he failed to explain where he was going.

9. The power of the Appellate Court to unsettle the order of acquittal on the basis of re-appreciation of the evidence is subject to the settled law that where two views are possible and out of the two, one points towards the

innocence of the accused, the view which favours the accused should prevail over the other pointing towards his guilt. Furthermore, the trial Court has the additional advantage of closely observing the prosecution witnesses and their demeanour, while deciding about the reliability of the version of prosecution witnesses. (*See H.D. Sundara and others Vs. State of Karnataka, Criminal Appeal No.247 of 2011 decided on 26.09.2023; Kali Ram v. State of H.P., 1973 (2) SCC 808 and Chandrappa and others v. State of Karnataka, (2007) 4 SCC 415*). A Division bench of this Court in the judgment passed in *State of Haryana Vs. Ankit and others* passed CRM-A No.3 of 2022 decided on 06.07.2023 has held that presumption of innocence further gets entrenched on the acquittal of accused by the trial Court.

CONCLUSION

10. In view of the facts and circumstances of the case, this Court finds that learned counsel for the petitioner has failed to point out any perversity or illegality in findings recorded by the learned trial Court or the learned lower Appellate Court which warrants interference by this Court. As such, there is no merit in the present petition and the same is dismissed.

(HARPREET SINGH BRAR)
JUDGE

February 13, 2024
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No