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IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR-4057-2014  
Reserved on: 20.03.2024  
Pronounced on: 21.03.2024

SARABJIT SINGH & ANR.  
...Petitioners

Versus

STATE OF PUNJAB  
...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H. S. Randhawa, Advocate  
for the petitioner.  
  
Mr. Sandeep Kumar, DAG Punjab.

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HARPREET SINGH BRAR, J.

1. The instant revision petition has been preferred against the impugned judgement of conviction and order of sentence dated 25.10.2013 passed by learned Judicial Magistrate Ist Class, Patiala in FIR No.371 dated 20.08.2007 registered under Sections 353, 186, 323, 506 and 34 of IPC at Police Station- Kotwali, Patiala as well as the impugned judgement dated 13.08.2014 passed by learned Additional Sessions Judge, Patiala, whereby, the conviction of the petitioners was upheld but the quantum of sentence was reduced to the period of imprisonment already undergone by them, respectively,while the sentence of fine was enhanced to Rs.2,500/- on each count.

The petitioners-Sarabjit Singh andBaljinder Singh were convicted and sentenced along with another co-accused namely Sukhjit Singh as follows: -

| Under Section | Sentence (concurrently)                                                                        |
|---------------|------------------------------------------------------------------------------------------------|
| 353 IPC       | R.I for 1 year 6 months along with a fine of Rs.100/- each.<br><br>In default, R.I. for 1 week |
| 332 IPC       | R.I for 1 year 6 months along with a fine of Rs.100/- each.<br><br>In default, R.I. for 1 week |

**FACTUAL BACKGROUND**

2. Briefly, the facts are that the FIR (supra) was registered on the basis of the statement made by HC Nazar Singh, wherein, it was alleged that the present petitioners were under trial in another criminal case and after producing them in the concerned Court, they were taken back to the Bakshikhana. On the way back to the Bakshikhana, the petitioners insisted to meet some person but the complainant refused them the permission, in lieu of which, the petitioners got annoyed and started quarrelling with him. During the quarrel, petitioner Baljinder Singh caught the complainant HC Nazar Singh by his collar whereas, petitioner Sarabjit Singh caught hold of his uniform and then they beat him.
3. Learned trial Court after appreciating the complete evidence on record, convicted the present petitioners along with the other co-accused under Sections 353 and 332 IPC but on account of the observation that the said Court could not take cognizance of charge under Section 186 IPC due to non-compliance of provisions of Section 195(1) Cr.P.C. and thereby, acquitted them under Section 186 IPC.

4. Thereafter, the petitioners along with other co-accused filed an appeal against the abovesaid judgement of conviction and order of sentence before the learned Additional Sessions Judge, Patiala and the said Court upheld the conviction of the petitioners but modified the quantum of sentence by to the period of imprisonment already undergone by them, respectively, while the sentence of fine was enhanced to Rs.2,500/- on each count and in case of failure to make the payment of fine, the defaulting person was sentenced to undergo R.I. for 3 months. Aggrieved by the abovesaid judgements of conviction and orders of sentence, the petitioners have approached this Court by way of the present revision petition.

### **CONTENTIONS**

5. Learned counsel for the petitioners contends that the claim of the complainant HC Nazar Singh that he had received injuries at the hands of the petitioners has not been corroborated by any medical evidence on record as no doctor has been examined by the prosecution. He further submits that no independent witness has been examined by the prosecution to corroborate the version alleged by the complainant and the entire prosecution evidence is based on the testimony of official witnesses. It is further contended that the prosecution has miserably failed in establishing that the complainant HC Nazar Singh was posted on duty on the alleged date of occurrence and was discharging his official duty when the complainant himself claimed that he was temporarily sent to the Police Line to undergo some course. He further submits that a perusal of the judgement rendered by the learned Appellate Court would reveal that, admittedly, there is no documentary evidence which would indicate that the complainant had been temporarily shifted to Police Line and was

deputed on challani duty. While concluding, he contends that the entire investigation in the present is tainted from the very beginning and thus, cannot sustain in the eyes of law.

6. Learned state counsel vociferously opposes the prayer made by the petitioner and contends that the learned Courts have passed the impugned judgements and orders after proper appreciation of the complete evidence on record and interference by this Court in the same, is not required. He further places on record the custody certificates of the petitioners and submits that both the petitioners have undergone 2 months of custody each in the present case.

#### **ANALYSIS AND OBSERVATIONS**

7. I have heard learned counsel for the petitioner and after perusing the paper-book with his able assistance, it transpires that the entire case of the prosecution lends its credibility from the testimony of official witnesses only as no independent witness has been examined to corroborate their stance. Moreover, the Sections 353 and 332 under which the petitioners have been convicted pertain to the deterring a public servant from discharging his official duty, whereas, in the present case there is not even a miniscule piece of evidence to show that the complainant HC Nazar Singh was on *challani* duty. Bare perusal of the testimony of the Investigation Officer-ASI Lakhwant Singh as well as ASI Amritpal Singh PW3 reveals that as per the official record, the duty of the complainant was at Police Station Kotwali, Nabha on the date of alleged occurrence.

8. Similarly, HC Ajmer Singh has been examined by the prosecution as PW-1 and in his testimony, he has stated that the complainant was posted at Police Line, Patiala on 30.08.2007, i.e., on the alleged date of occurrence. It is

further deposed by HC Ajmer Singh that there was no written order with regard to production of the said undertrial before the concerned Court on 30.08.2007. Further, as perusal of the cross-examination of PW-2 ASI Lakhwant Singh, Investigating Officer shows that he has categorically admitted that the alleged occurrence did not take place in his presence but he prepared the concerned documents on disclosure by the police officials. It has been further admitted by ASI Lakhwant Singh that the zimni order of the concerned Court does not mention that the petitioners were produced by police officials and that he did not take any DDR Register from P.S Kotwali, Nabha showing departure of Nazar Singh-complainant to Police Line for the purpose of *challani* duty. He has further admitted that HC Nazar Singh failed to produce any production warrant to prove that the petitioners were brought by him to the concerned Court on 30.08.2007.

9. Interestingly, a perusal of the examination-in-chief of the complainant HC Nazar Singh PW-4 itself shows that he has admitted that he was posted at P.S Kotwali, Nabha on the date of occurrence and also that he has never produced any order before the Investigating Officer showing that he was posted at Police Line, Patiala.

10. Further, the complainant has alleged that he was badly beaten and bruised by the petitioners but the prosecution has failed to bring any medical evidence or examine a doctor on record. It is a settled law that merely the fact that prosecution has relied on the testimony of official witnesses and no independent witness has been examined would not discard the case of the prosecution. But in the present case, when all the aforesaid facts are clubbed

together and viewed in unison, the case of the prosecution fails to establish the guilt of the petitioners beyond reasonable doubt.

**CONCLUSION**

11. In view of the above discussion, this Court is inclined to accept the prayer made by the petitioners since sufficient grounds are made out warranting interference by this Court. The impugned judgement of conviction and order of sentence dated 25.10.2013 passed by learned Judicial Magistrate Ist Class, Patiala in FIR No.371 dated 20.08.2007 registered under Sections 353, 186, 323, 506 and 34 of IPC at Police Station- Kotwali, Patiala as well as the impugned judgement dated 13.08.2014 passed by learned Additional Sessions Judge, Patiala, are hereby, set aside.

12. Consequently, the present petition stands allowed and thereby, the petitioners are acquitted of all charges framed against them in the present case. Their bail bonds and surety bonds also stand discharged.

13. Pending miscellaneous application(s), if any, shall also stand disposed of accordingly.

21.03.2024  
manisha

(HARPREET SINGH BRAR)  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |