

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

223

CRR-534-2018

Date of Decision: 09.02.2024

BRIJ PAL

.....Petitioner

Versus

PREMWATI AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Vikas Bhardwaj, AAG, Haryana
for respondents No.13.

HARPREET SINGH BRAR, J. (ORAL)

1. The instant revision petition has been preferred against the impugned Judgement dated 27.02.2015 passed by learned Judicial Magistrate Ist Class, Sohana in criminal case No.194 dated 04.10.2008,whereby, respondent no. 1 to 12 have been acquitted in FIR No.96 dated 06.03.2008 registered under Sections 147, 148, 149, 323, 325, 341, 379, 427 of IPC as well as theimpugned Judgement dated 14.11.2017 passed by learned Additional Sessions Judge, Gurugram in CRA No.26 of 2015,whereby, the appeal filed by the present petitioner against the judgement dated 27.02.2015 has been dismissed.

FACTUAL BACKGROUND

2. Briefly, the facts are that on 06.03.2008, the petitioner made a statement to the police that due to pending litigation, respondent no. 1 to 12 (private respondents) attacked the car bearing No.H-09-L-0038 in which he was travelling along with Bhagwan Singh towards his office. The private

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respondents while being armed with *Lathis* and *Dandas*(Sticks), stopped the said car and dragged the petitioner out and started beating him. When the wife and mother of the petitioner came out of his house after hearing the noise, said respondents also gave injuries to them. Ultimately, the brother of the petitioner came on the spot and rescued him from the said respondents. However, during the aforesaid incident an amount of Rs. 20850/- and a gold chain was stolen by the private respondents.

3. On the basis of the above said statement, FIR(supra) was registered by the police against the private respondents and two other accused who died during the trial. On finding a prima facie case against the private respondents-accused, the learned trial Court charge-sheeted them under Sections 147, 148, 323, 325, 341, 149, 427, 379 of IPC to which they did not plead guilty and claimed trial.

4. The prosecution examined six witnesses to support its case. Thereafter evidence of the prosecution was closed vide court order dated 18.12.2014. Thereafter, statements of respondents-accused were recorded under Section 313 Cr.P.C, in which all the incriminating material on record was put to them and they claimed false implication. However, despite availing several opportunities, the private respondents-accused did not lead any evidence in defence.

5. Ultimately, the learned trial Court concluded that the prosecution had miserably failed to prove the guilt of the respondents-accused and thereby, acquitted them of the allegations levelled against them vide impugned order dated 27.02.2015. The appeal preferred by the petitioner against the aforesaid impugned order was also dismissed by the learned lower Appellate Court vide

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order dated 14.11.2017, being devoid of merit. Aggrieved by the same, the petitioner has preferred the present revision petition before this Court.

CONTENTIONS

6. Learned counsel for the petitioner *inter alia* contends that one of the accused namely Gajinder was convicted by the Juvenile Justice Board, Gurgaon vide order dated 08.12.2011 (Annexure A-1) in the FIR (supra) and this judgement has never been challenged. Therefore, the above-mentioned impugned orders are liable to be set aside. It is further contended that prosecution had well established the guilt of the private respondent as the injuries were duly proved on record. He further submits that the version of the petitioner-complainant was fully supported by the eye-witness examined namely Sunita (PW-4). He further submits that the injuries received by the petitioner as well as his mother and his sister as mentioned in the MLR, were duly proved by the doctor namely Dr Gurvinder Singh (PW-7).

7. Learned counsel for the petitioner further submits that the delay in filing the appeal before the learned lower Appellate Court was not condoned on inaccurate grounds as it was the learned trial Court who was at fault and not the petitioner.

OBSERVATIONS AND ANALYSIS

8. I have heard learned counsel for the petitioner and perused the paper-book with his able assistance.

9. This Court finds no merit in the submissions made by the learned counsel for the petitioner. A perusal of the material on record shows that two FIRs were lodged on the alleged date of incident, one by the present petitioner and one by the private respondents, against each other. Even the private

respondents received injuries but this fact was concealed by the petitioner, who

was also an accused in the cross-case, in his complaint as well as his cross-examination. The MLR of the private respondents-accused proved that they also received injuries at the hand of the petitioner. Petitioner along with about 18 other accused were also facing trial simultaneously qua the same occurrence under Sections 147, 148, 149, 323, 325, 506 of IPC. Further, the petitioner who was examined as a witness (PW-2) made material improvements in his statement. It is alleged by the petitioner in his complaint that he was travelling in the car along with Bhagwan Singh (PW-3) but this statement was not supported by Bhagwan Singh. Similarly, Sunita (PW-4) did not make any statement qua the genesis of the alleged occurrence before the learned trial Court. Further, the investigating officer (PW-6) stated the private respondents-accused were also injured in the occurrence. As far as allegations of theft of cash and gold chain are concerned, there is nothing in the investigation regarding the same.

10. Moreover, 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** CRM-A No.3 of

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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

11. 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 present petition and the same is dismissed. Pending miscellaneous application(s), if any, shall also be disposed of accordingly.

(HARPREET SINGH BRAR)
JUDGE

February 09, 2024
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| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |