



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-4185-2017 (O&M)
DATE OF DECISION: 10.07.2024

SURJEET SINGH AND OTHERS ...PETITIONERS

Versus

STATE OF PUNJAB ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. P.S. Rai, Advocate for the petitioner(s).
 Mr. J.S. Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

The jurisdiction of this Court has been invoked under Section 401 Cr.P.C. for setting aside the judgement dated 26.04.2016 passed by the JMIC, Phillaur, District Jalandhar and the judgement dated 19.09.2017 passed by Additional Sessions Judge, Jalandhar whereby the petitioners have been convicted under Sections 323/325 read with Section 34 IPC, and sentenced to undergo Rigorous imprisonment for a period of 6 months.

At the very outset, learned counsel for the petitioners informs the Court that petitioner No.3 has unfortunately expired.

In view of the above statement, the revision petition stands abated qua petitioner No.3.

Learned counsel for the petitioners contends that the impugned orders are liable to be set aside on the ground that the same are passed without the proper appreciation of the facts of the case and

**CRR-4185-2017 (O&M)****-2-**

there are serious discrepancies in the statements of the prosecution witnesses recorded before the Trial Court. He further submits that the alleged occurrence took place on 22.11.2012 and the present FIR got registered on 13.12.2012 and no proper explanation has been putforth by the complainant for the delay of 20 days which makes the case of the prosecution highly doubtful and makes out that the petitioners have been wrongly convicted.

Learned counsel for the petitioners further contends that the complainant was fit to record her statement on 22.11.2012 due to her own whims and fancies she chose to record her statement on 13.12.2012. He further submits that the injured-victim was allegedly taken to hospital on motorcycle whereas no blood stains are alleged to have been found on the motorcycle. Moreover, the prosecution has failed to recover any blood on the place of occurrence which raises serious doubts on the case of the prosecution.

Learned State Counsel has filed custody certificates of remaining three petitioners, the same are taken on record. As per the same, petitioner No.1-Surjit Singh has undergone sentence for 5 months and 7 days, petitioner No.2- Joginder Singh @ Baba has undergone sentence for a period of 2 months and 13 days and petitioner No.4-Ranjit Singh @ Rana has undergone sentence for a period of 2 months and 17 days, out of total sentence of 6 months. He submits that the trial Court has rightly passed the impugned judgement after

**CRR-4185-2017 (O&M)****-3-**

considering the entire evidence and thus, prayed for dismissal of the present petition.

Heard.

Be that as it may, this Court has minutely gone through the impugned judgements passed by the trial Court and the Appellate Court and has found that the Trial Court has failed to apply its judicious mind while passing the impugned judgement as there are serious discrepancies recorded in the version of the prosecution wherein the prosecution has failed to prove any blood stained earth recovered from the place of alleged occurrence and moreover, there is delay of more than 15-20 days in lodging the present FIR, when the complainant was already declared fit to record her statement which creates a serious doubt on the story of the prosecution. Moreover, in the cross-examination of Dr. Joginder Singh-PW-6 and Dr. Yashpal Shama-PW7 they have admitted that the injuries caused on the person of the complainant could be self inflicted and therefore, the possibility of self inflicting injuries cannot be ruled out and hence, it has been contended that guilt of the petitioners have not been proved beyond reasonable doubt.

Further, dependence can be made upon on the Apex Court judgment titled as '***Jitendra Kumar Mishra @ Jittu vs. The State of Madhya Pradesh***' passed in Criminal Appeal No.1348 of 2011 where it was held as follows:-



CRR-4185-2017 (O&M)

-4-

‘17. We are conscious of the fact that the appellate court should be slow in interfering with the conviction recorded by the courts below but where the evidence on record indicates the prosecution has failed to prove the guilt of the accused beyond reasonable doubt and that a plausible view, different from the one expressed by the courts below can be taken, the appellate court should not shy away in giving the benefit of doubt to the accused persons.

18. In the overall facts and circumstances of the case, we are of the opinion that the courts below ought to have extended the benefit of doubt to the appellants. Accordingly, we are of the opinion that the conviction and sentence of the appellants are liable to be set aside and are hereby set aside by granting the benefit of doubt. They stand acquitted and are set free. They are on bail, their bail bonds are discharged.’

In view of the above discussion and observations wherein the prosecution has failed to prove the charges against the accused beyond reasonable doubt, and moreover, when there are material discrepancies recorded in the statements of the witnesses, this Court deems it appropriate to give the petitioners the benefit of doubt. Accordingly, the judgement dated 26.04.2016 passed by the JMIC, Phillaur, District Jalandhar and the judgement dated 19.09.2017 passed by Additional Sessions Judge, Jalandhar are set aside.

Revision petition is allowed.

(SANDEEP MOUDGIL)
JUDGE

10.07.2024
anuradha

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