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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-3561-2019

Date of decision: 14.03.2024

Pritam Singh

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Harpal Singh, Advocate for
Mr. Peeush Gagneja, Advocate
for the petitioner.

Mr. Bhavesh Ola, Advocate for
Mr. Parvez Chugh, Advocate
for respondents no. 2 to 6

HARPREET SINGH BRAR, J. (ORAL)

1. The present revision petition is preferred against judgment dated 26.09.2019 passed by learned Additional Sessions Judge, Ferozepur, vide which judgment of conviction and order of sentence dated 23.04.2019 passed by learned Sub Divisional Judicial Magistrate, Guruharsahai in the case stemming from FIR, bearing no. 103 dated 19.06.2012 registered under Sections 325, 324, 323, 148, 149 of IPC registered at Police Station Guruharsahai, District Ferozepur, was set aside and the private respondents were acquitted of charges framed against them.

2. Briefly, the facts are that the present case was registered on the basis of the statement of the petitioner – complainant, namely, Pritam Singh, wherein it is alleged that he got the land on which his house is situated, demarcated from Halqa Patwari, during which it was found that about one karam of his land was in the possession of respondent no. 2-Amar Singh. Subsequently, the private respondents began to construct a wall over his land which was in possession of respondent no.2. On 16.06.2018, at about 8 p.m., when the complainant reached his residence, respondent no. 2-Amar Singh armed with a gandasi, Jarnail Singh

armed with a kirpan, respondent no. 3-Chhinder Kaur armed with an axe,

respondent no. 5-Tony armed with a gandasi, respondent no. 4-Jagir Singh armed with a gandasi, Sambo Bai armed with a sota, respondent no. 6-Swaran Kaur armed with a dang, and Gurpreet Singh armed with a kappa, attacked him in the courtyard of his house. The petitioner allegedly suffered grievous injuries on account of the weapons used. When Sohan Singh i.e., the father of the petitioner came to rescue him, he too was brutally assaulted and resultantly suffered various injuries. The petitioner and his father raised an alarm, which attracted Manga Singh and Darshan Singh to the spot, who witnessed the entire occurrence and got the complainant and his father admitted in Civil Hospital, Guruharsahai. As per the statement of the petitioner, the private respondents while leaving took away the petitioner's bike, bag and cash amounting to Rs. 1,20,000/-. The FIR was registered on the basis of the statement of the complainant on 19.06.2012, while being admitted in the Civil Hospital, Guruharsahai. After completion of the investigation, the challan was presented against the private respondents along with three other persons. Finding a prima facie case made out under Sections 325, 324, 323, 148, 149 of the IPC against the accused, formal charge was framed accordingly.

3. After assessing all material on record, the learned trial Court convicted the private respondents vide judgment dated 23.04.2019. Aggrieved by the same, the private respondents preferred an appeal before the learned lower Appellate Court which was allowed vide judgment dated 26.09.2019.

4. Learned counsel for the petitioner assails the judgment of the lower Appellate Court on the ground that there are specific allegations levelled against the private respondents and specific attribution of injuries to the private respondents. Further, the petitioner-complainant was admitted in the Civil Hospital, Guruharsahai as a result of the injuries inflicted by the private

respondents. The learned trial Court passed a well-reasoned judgment based on correct appreciation of evidence available on record, however, the findings of the learned lower Appellate Court are against the evidence available on file.

5. Learned counsel further submits that the MLRs of the petitioner and his father are self-explanatory and its patently discernible that they suffered grievous injuries. The prosecution duly examined PW-4, namely, Dr. Sharin Dhiman, who proved on record the injuries on the persons of the petitioner and Sohan Singh. The learned lower Appellate Court completely overlooked the unimpeachable evidence put forward by the petitioner-complainant and has misread the material evidence. There was nothing in the testimonies of both the petitioner-complainant and his father, namely, Sohan Singh, to falsify the version of the prosecution.

6. Per contra, learned counsel for the private respondents-accused contends that the respondents never inflicted any injury to the petitioner and his father. All the injuries allegedly received are self-suffered. As per the testimony of PW-4, namely, Dr. Sharin Dhiman, there is a possibility that the injury no. 1 to 3 on the person of Sohan Singh can be self-inflicted and injury no. 4 and 5 cannot be commented upon. Moreover, the petitioner-complainant was the aggressor party in the instant case and caused injuries to Swaran Kaur. An FIR in this regard was lodged much prior in time to the present one. This fact has been clearly substantiated by the investigating officer, who has categorically stated that the occurrence of injuries on the person of Swaran Kaur were prior in time. Hence, the present FIR was lodged in order to wreak vengeance on the private respondents. Lastly, the version of the petitioner regarding the alleged demarcation, which is said to have been conducted by Halqa Patwari, cannot be relied upon since no document has been produced on record to prove that any sort of demarcation

proceedings were conducted by any revenue officer.

7. Having heard the learned counsel for the parties and after perusing the record of the case with their able assistance, it appears that there is nothing in the judgement of the lower Appellate court to indicate perversity or misreading of evidence in the judgement of acquittal. As per the version of the petitioner/complainant the alleged occurrence took place at about 8 p.m. on 16.06.2012. Admittedly, the civil Hospital is about 20 km away from the house of the petitioner and takes 30 minutes on the motorcycle. However, there is an eight hour delay before the petitioner and his father reached the Civil Hospital. This delay was not explained by them. This further makes the prosecution case suspicious as the petitioner and his father were alleged to have received serious injuries. Also, there is no evidence on record to show that in the intervening period of eight hours, any sort of medical assistance or first aid was sought by the petitioner. There is a material delay in the medico legal examination of the petitioner. Such delay is fatal to the case of the prosecution if it remains unexplained.

8. As per the prosecution, the complainant and his father received grievous injuries and as result a lot of blood was oozing from the wounds. They wrapped their clothes around the injuries in order to stop the bleeding, which were unwrapped by the concerned doctor when they reached the Civil Hospital. The blood stained clothes is a material piece of evidence to corroborate the case of the complainant, yet, there is no explanation forthcoming as to why they were not handed over to the police when their statements were recorded before the police. This is another glaring gap in the prosecution case. Furthermore, it is alleged that a large quantity of blood was spilt during the incident, however, during the investigation, no blood stained earth was taken into possession by the Investigating

Officer.

9. It is established that the petitioner and his father were admitted in the Civil Hospital on 17.06.2012. They refused to give their statement the next day, when ASI Pawan Kumar visited the hospital to record the same. There is nothing on record to show that petitioner and his father were not feeling well as there is no medical advice of the concerned medical officer regarding this. They finally gave their statements on 19.06.2012 at 4:05 p.m. Delay in setting the law into motion by lodging of complaint and registration of FIR is normally viewed by the courts with suspicion as it undermines the integrity of the cause of action. Hence, it becomes imperative for the prosecution to satisfactorily and cogently explain the delay, which was not the case here. Delay in lodging the first information report quite often results in embellishment and muddying of facts. Lastly, according to the complainant, there are 15/20 houses in the vicinity of the alleged place of incident, but surprisingly, nobody came at the spot and was made an independent witness of the above stated occurrence.

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 Lower Appellate Court which warrants interference by this Court. As such, there is no merit in the present revision petition and the same is dismissed.

11. Pending miscellaneous application(s), if any, also stand disposed of.

14.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No