



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-2127-2018

Date of decision:04.09.2024

Vipin Gupta

...Petitioner

Versus

U.T. of Chandigarh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Angad Chahal, Advocate for the petitioner.

Mr. Rajiv Vij, Addl. P.P., U.T. Chandigarh.

None on behalf of respondents No.2 to 6.

KARAMJIT SINGH, J. (ORAL)

1. The present revision petition has been filed by the petitioner/complainant against the judgment dated 02.05.2017 passed by the Court of Additional Sessions Judge, Chandigarh vide which the appeal filed by the petitioner against the judgment dated 18.04.2016 passed by the Court of Judicial Magistrate Ist Class, vide which respondents No.2 to 6 were acquitted by the learned trial Court in a criminal case having FIR No.56 dated 05.04.2008 under Sections 448, 451, 380, 506, 427, 120-B IPC, Police Station Industrial Area, Chandigarh, was dismissed.

2. The brief facts of the case are that petitioner Vipin Gupta and one Jagdish Rai lodged complaint in writing to the effect that Plot No.182 comprised in Khasra No.6/8/1/2 situated in village Dariya, Chandigarh was previously owned by Smt. Santosh Babbar and she was in its possession since 1971. Subsequently, she entered into an agreement to sell the same



with Jagdish Rai. At that time, there were 17 rooms in the said property. On 23.09.2007, when Smt. Santosh Babbar went to said plot, she came to know that respondents No.2 to 6 had demolished the common wall between her plot and the Gurudwara Sahib and they had taken away the building material. Then, Smt. Santosh Babbar lodged complaint against the aforesaid persons, but the police failed to take any action. On the basis of aforementioned agreement to sell, the sale deed was executed on 17.12.2007. After the execution of the sale deed, complainant along with Jagdish Rai and Raghunath visited the aforesaid property and on seeing them, eight persons came there from the said of Gurudwara Sahib and started inquiring from them and when the complainant told them that they have purchased the said premises, the aforesaid persons started giving threats to them and asked them to leave the spot and some other Sevadars of Gurudwara Sahib armed with swords also came there. On this the complainant party went away from there, the matter was reported to the police and the accused persons were called by the police, but police failed to take any action against them. Again on 28.01.2008, when Jagdish Rai and Raghunath visited the aforesaid premises, they were again threatened by Shingara Singh along with two other persons. Again the matter was reported to the police. Consequently, FIR was registered in this case against respondents No.2 to 6. On completion of investigation, police presented challan.

3. Finding a prima facie case, charges under Sections 427, 448, 451 and 120-B IPC were framed against the accused persons to which they pleaded not guilty and claimed trial.



4. The prosecution in support of its case examined PW-1 S.S Randhawa, Superintendent of Police (Retd.), who being inquiry officer conducted inquiry on the basis of complaint Ex.P-A and submitted his report Ex.P-B against the accused persons. PW-2 Ajay Pal Singh, Clerk in the office of Sub-Registrar, Chandigarh proved registration of sale deed Ex.PW-2/A dated 17.12.2007 executed by Smt. Santosh Babbar wife of Om Parkash in favour of Vipin Kumar and Pankaj Gupta. PW-3 Om Parkash, deposed that the property in question was purchased by him in 1971 and at that time, there was no Gurudwara Sahib in that area. After getting permission, he constructed 17 huts in his land. That the accused persons demolished the boundary wall and two huts illegally in year 2007 on which he gave complaints in writing to various police authorities. That thereafter, he sold the property to Vipin Gupta and Pankaj Gupta. PW-4 Inspector Chiranji Lal, Investigating Officer, who deposed regarding investigation conducted by him and proved FIR Ex.P-1 and various documents relating to arrest of the accused persons. PW-5 Jagdish Rai, deposed that he is doing business of sale of marble in premises in question. He also deposed regarding the agreement to sell executed by Smt. Santosh Babbar and sale deed 17.12.2007, which was executed by Smt. Santosh Babbar in favour of his son Pankaj Gupta and nephew Vipin Gupta. That on 19.12.2007, he along with other members of his family visited the aforesaid property and at that time, they were threatened by the accused persons and asked to leave the spot, when the accused came to know that the said property was purchased by his son and nephew. The matter was reported to the police, but no action was taken. He again visited the premises and found common wall



and four rooms were demolished. The matter was again reported to the police and FIR was registered in the present case against the accused persons.

5. The evidence of the prosecution was closed by order. The statements of all the accused were recorded under Section 313 Cr.P.C wherein they pleaded innocence and false implication.

6. After hearing the counsel for the parties, the trial Court acquitted all the accused vide its judgment dated 18.04.2016.

7. Being aggrieved, the petitioner/complainant filed appeal which was also dismissed by the Court of Additional Sessions Judge, Chandigarh vide judgment dated 02.05.2017. Being dis-satisfied the petitioner/complainant has filed the present revision petition.

8. I have heard the counsel for the petitioner and counsel appearing on behalf of U.T. Chandigarh.

9. The counsel for the petitioner has submitted that it stands proved on the record that previously, Smt. Santosh Babbar was owner in possession of premises in question. She and her husband Om Parkash raised construction of 17 rooms in the said premises and subsequently, the said premises was purchased by petitioner and his cousin vide sale deed dated 17.12.2007. The execution and registration of the said sale deed is proved by PW-2 who produced the concerned summoned record. It is further submitted that on the basis of the aforesaid sale deed, the complainant and his co-vendee came into possession of the aforesaid property being its owners. That the accused persons intended to grab the said property, they being residing in the adjoining Gurudwara Sahib. The accused persons



demolished the boundary wall and some part of the construction existing at the spot by trespassing into the aforesaid property owned and possessed by the complainant and Pankaj Gupta. The accused also removed the construction material lying there. It has been further contended that as and when, the complainant party visited the aforesaid property, the accused persons used to threaten them and stop them from entering the said property. The matter was reported to police and PW-1 enquired into the matter and gave his report Ex.PB against the accused persons. It has been further argued that the case of prosecution stands fully proved against the accused persons, who hatched conspiracy to grab the property belonging to the complainant and co-vendee Pankaj Gupta. It has been further contended that the impugned judgments passed by the learned trial Court and Court of Additional Sessions Judge, Chandigarh deserve to be set aside and respondents No.2 to 6 be convicted and sentenced to imprisonment, as per law.

10. The counsel appearing on behalf of U.T. also argued supported the arguments raised by counsel for the petitioner.

11. I have considered the submissions made by counsel for the petitioner.

12. Admittedly, petitioner/complainant did not appear in the witness box during trial, despite being fully aware of the pendency of the trial. PW-1 who conducted inquiry, failed to disclose the area of land owned by the complainant party and he was also not aware about the area of land on which Gurudwara Sahib was constructed. PW-1 also admitted that visibly nothing came on record regarding theft of any article and or any



damage etc. caused to the property. PW-4 stated that he cannot say if there was any land in between Gurudwara Sahib and the land of complainant. He further deposed that he does not know as to who was the owner of the land stated to be encroached, on the day of occurrence. PW-5 Jagdish Rai admitted in his deposition that demolished rooms are not visible in photographs Ex.D-1 to Ex.D-4. He also admitted that no photographs of demolished wall and rooms are available on the record. PW-3 also made oral statement and failed to produce any corroborative evidence. PW-2 an official witness simply produced the summon record regarding execution and registration of sale deed dated 17.12.2007.

13. This Court do not find any perversity in the findings recorded by the learned trial Court and the Court of Additional Sessions Judge and the law presume double presumption in favour of the accused after a due acquittal by the trial Court.

14. In the light of the above discussion, the present revision petition is hereby dismissed being devoid of merits.

04.09.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No