

2025:PHHC:017174



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-2199-2010(O&M)

Date of Decision:-05.02.2025

Mishra Singh.

.....Petitioner.

Vs.

Baldev Singh & Ors.

.....Respondents.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Satyam Arora, Advocate for
Mr. Vikas Kumar, Advocate for the Petitioner.

Ms. Sukhan Rangi Sekhon, Advocate for the respondents.

Mr. Harkanwar Jeet Singh, AAG Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been preferred against the judgment dated 30.11.2009 passed by Additional Sessions Judge, Patiala whereby the accused/respondents were acquitted of the charges framed against them.

2. The brief facts of the case are that on 10.05.2001 complainant/petitioner Mishra Singh got recorded his statement before SI Sewa Singh stating therein that he had taken four killa two canal land on mortgage from Gurjant Singh at the rate of Rs.14000/- per killa and they had settled the accounts qua the same. They had marked their agricultural produce for Rs.43087/- through Gurjant Singh C/o M/s Guru The Bahadur Trading Company Commission agent shop at Bhadson. Out of this sale

price Rs.2000/- were paid to them. On 8.5.2001 at about 7 PM he came to Gurjant Singh for receiving remaining payment. Gurjant Singh asked him to sit with him in his vehicle if he wants to settle the accounts and took him to his shop. Gurjant Singh told the complainant that there was some problem in making the payment. The complainant sat in the vehicle with Baldev Singh and Gurnaib Singh and when the vehicle reached near bridge of Canal minor, Baldev Singh and Gurnaib Singh started beating him with a cricket bat and when he raised a hue and cry, both of them ran away from the spot. On the basis of the statement of the complainant, the instant case was registered. The police reached the spot and prepared rough site plan of the place of occurrence and recorded the statements of the witnesses. The medical examination of the complainant was got conducted. On completion of the other formalities, the challan against the accused was presented in the Court.

3. The Trial Court framed charges against the accused/respondents under Sections 341/325/323/506/34 IPC to which they pleaded not guilty and claimed trial.

4. In order to substantiate the charge against the accused the prosecution examined PW-1 Dr. Jarnail Singh, PW-2 Mishra Singh complainant, PW-3 Gurjant Singh Ahlmad, PW-5 Dr. Varinder Kumar, PW PHG Darbara Singh, PW-7 Sewa Singh and then closed the prosecution evidence.

5. After the closure of the prosecution evidence, the accused were examined under Section 313 Cr.PC in which all the incriminating evidence appearing against them in the prosecution evidence was put to them. They denied the prosecution allegations and pleaded innocence and false implication. The accused persons after tendering into evidence documents,

closed their defence evidence.

6. Based on the evidence led, the accused/respondents came to be convicted and sentenced by the Court of Sub Divisional Judicial Magistrate Nabha convicted and sentenced vide judgment and order of sentence dated 05.08.2008 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
325/34 IPC	RI for 01-1/2 Years each	Rs.1000/- each	RI for 02 Months each
341/34 IPC	SI for One Month each	-	-
506 IPC	RI for One year each	-	-

7. The accused/respondents preferred an appeal which was allowed by the court of Additional Sessions Judge, Patiala vide judgment dated 30.11.2009 thereby setting aside the judgment of the conviction and order of sentence and accused/respondents nos.1 & 2 were acquitted of the charges framed against them.

8. The complainant/petitioner has filed the instant revision petition impugning the aforementioned judgment of acquittal.

9. The Counsel for the complainant/petitioner contends that the judgment of acquittal passed by the Appellate Court is based on conjectures and surmises. The prosecution witnesses had deposed consistently but minor discrepancies have been given undue importance. The medical evidence was totally in consonance with the ocular account in as much as the complainant had received an injury on his right ankle as is borne out from the medical record. He therefore contends that the impugned judgment was liable to be set aside and the private respondents no/1 & 2 be convicted and sentenced as per the judgment of the Trial Court.

10. The Counsel for the accused/private respondent nos.1 & 2 contends that no fault could be with the impugned judgment of the lower Appellate Court which has examined the evidence threadbare and acquitted

them. Therefore, the petition is liable to be dismissed.

11. The Counsel for the State has supported the case of the petitioner/complainant and contends that the material on record was sufficient to establish that the offences had been committed and, therefore, the impugned judgment was liable to be set aside.

12. I have heard Counsel for the parties.

13. A perusal of the record would show that on the day of occurrence, Gurjant Singh had come to his house at about 7 P.M. and had taken him to his commission agent shop in his car in order to settle the accounts. However, the complainant has not been able to explain as to why the accounts were not settled between them and as to why Gurjant Singh asked the complainant Mishra Singh to leave him to his house in the village as they had not even sat together for settlement of the accounts. The complainant has also not been able to explain as to how and from where accused Gurnaib Singh and Baldev Singh appeared on the scene. The complainant could not explained as to how PW-3 Gurjant Singh who is his real paternal nephew reached or appeared at the place of occurrence and why the said occurrence was not seen by any one else except his real nephew.

14. The weapon of offence i.e. cricket bat which was produced by the prosecution before the court as that weapon of offence has not been identified by the complainant/petitioner Mishra Singh, on the contrary, he has stated that the said cricket bat Ex. P-1 was not the same one with which he was given injuries by Baldev Singh. He volunteered to say that the bat produced in the court was a changed bat, while the bat with which he was given injuries was larger than the bat produced in the Court.

16. Although the complainant had earlier stated in his cross-examination that on the day of occurrence, he had not gone to Bhadson

before 7 p.m. in the evening, however, later on, during cross-examination, he admitted that on the day of occurrence, he had remained at police station Bhadson in the morning as he had stood as surety (furnished bail bonds) for one Maghar Singh son of Narain Singh resident of Village Matorda in the premises of police station Bhadson.

17. Another circumstance which makes the prosecution story doubtful is that the complainant Mishra Singh stated that his nephew Gurjant Singh had taken him to the police station and then to the hospital. This was his version even in his D.D.R. Ex. PW-2/A dated 8.5.2001. However, in the Challan, the prosecution story is that the son of the complainant namely Bahadur Singh had also accompanied him alongwith Gurjant Singh. While appearing as PW-2 the complainant stated that his nephew Gurjant Singh had taken him to the hospital from the police station on his scooter. The said scooter was being driven by his nephew Gurjant Singh. As against this, PW-6 PHG Darbara Singh who was deputed by the investigation officer Sub Inspector Sewa Singh to take the injured/complainant Mishra Singh to hospital stated that Mishra Singh had come to the police station all alone and that he and Mishra Singh had gone to the hospital from police station on foot and not on a scooter. He further created a doubt in the prosecution story by stating that D.D.R. was recorded only after the complainant had returned to the police Station, whereas the prosecution story is that D.D.R. was recorded first in point of time and Mishra Singh had gone to the hospital afterwards.

18. PW-3 Gurjant Singh candidly admitted in his cross-examination that Mishra Singh had gone to Bhadson from Village Matorda on the day of occurrence at about 8/9 a.m. in the morning and had not returned to the village after that. This belies the story of the complainant that he had gone to Bhadson on that day only in the evening and in the defence version put to

the complainant in his cross-examination seems the correct version. This witness stated that the occurrence had taken place at about 7 p.m. whereas the complainant stated that he was taken from his house in commission agent shop at Bhadson at 7 p.m. and was given injuries while he was being taken back to his village. PW-3 Gurjant Singh stated that he did not witness the occurrence as it was already concluded, when he had reached the place of occurrence and the accused person had already run away. Therefore, clearly Gurjant Singh has denied having seen any part of the occurrence or the accused persons at the spot.

19. The aforementioned discrepancies in the statements of the PWs and the fact that only a single injury was caused to the person of the complainant certainly creates a doubt in the prosecution case. A perusal of the MLR introduces a different version than the one set up by the PWs. Complainant Mishra Singh stated that he was taken to the police station by his nephew Gurjant Singh. The SHO, police station Bhadson while furnishing the Challan introduced the name of Bahadur Singh who is the son of the complainant as the person who took the complainant to the hospital. PW-6 PHG Darbara Singh stated that the complainant Mishra Singh was taken to the police station by him on the direction of SI Sewa Singh. However, the MLR Ex. PW-5/A shows that Sewa Singh had brought complainant/injured Mishra Singh to the hospital and not PHG Darabra Singh. In these circumstances, a single injury on the person of the complainant Mishra Singh, becomes a highly doubtful injury. The doctor concerned i.e. PW-5 Dr. Varinder Kumar himself stated that no visible injury was seen on the part of the body, whereas the complainant stated that injury (difuse swelling) was there. In his cross-examination, Dr. Varinder Kumar admitted that if the injuries had been because of the impact the bat

then the injury mark would have been present. He further admitted that the injury could have been caused because of an accident. PW-1 Dr. Jarnail Singh Radiologist who conducted the X-ray Examination of the complainant/injured Mishra Singh stated that receipt of the said injury on account of an accident or the same being self suffered cannot be ruled out. In addition, the prosecution has also not been able to explain as to why the complainant who had admitted in the hospital on 8.5.2001 was not radiologically examined upto 11.5.2001. In these circumstances, the causing of the injury on the person of the complainant on 8.5.2001 seems to be highly doubtful and the conclusion arrived at by the court of ADJ, Patiala is a possible and plausible one.

20. Keeping in view the aforementioned discussion, I find no merit in the present revision petition and the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

February 05, 2025
Vinay

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