



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

231

CRR-1278-2022**Date of decision: 09.04.2026**

JATINDER SINGH @ JEETINDER SINGH

.....Petitioner

VERSUS

JAI RAM AND OTHERS

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: - Mr. Mukesh Garg, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (Oral)

The present revision petition has been preferred against the judgment dated 10.05.2018 passed by Judicial Magistrate, 1st Class, Sangrur in case arising out of FIR No. 103 dated 21.07.2016 registered under Sections 447/511/506/34 IPC at Police Station Bhawanigarh wherein the respondent-accused persons were acquitted by the trial Court as well as against the judgment dated 29.10.2021 passed in CRA-278-2018 by the Additional Sessions Judge, Sangrur dismissing the appeal preferred by the petitioner against the said judgment of acquittal.

2. Briefly summarized the facts of the present case are that on 21.07.2016, ASI Nirmal Singh, the Investigating Officer of the case, alongwith other police officials, were present at Bus Stand Channo, in connection with patrolling duty. Jatinder Singh @ Jeetinder Singh came to

the Investigating Officer and got recorded his statement to the effect as under:-

"I am an agriculturist. I am owner and in possession of land measuring 5 bighas 2 biswa in khasra no. 689 behind my house. There is house of accused Jai Ram on the other side of the street adjoining to my land. During the intervening night of 17-18.7.2016, the accused persons tried to encroach upon 4 biswas of my land by raising wall in the same. I have also planted some trees in my land. When I asked the accused persons about raising the wall in my land, then, the accused persons started threatening to kill me. In the mean time, Harpal Singh came at the spot, who stopped the altercation between us. Since then, talk was going on between the respectables of my village in this respect, but the same did not attain finality".

3. On the basis thereof, the FIR was registered and the FIR was investigated into. Rough site memo was prepared. Statement of witnesses was recorded under Section 161 Cr. P.C. The respondent-accused persons were thereafter arrested.

4. After completion of the investigation, the final report under Section 173 Cr. P.C. was filed. On appearance of the respondent-accused, copies of all documents were supplied to the accused persons. A charge was later framed against the respondent-accused persons for commission of offence under Section 447/506/511/34 IPC. The respondent-accused persons pleaded not guilty and claimed trial.

5. In support of its case, the prosecution examined as under:-

"5.PW1 Harpal Singh, eye witness, who has deposed regarding the ownership and possession of Jatinder Singh over the land 5 bighas 2 biswas and regarding incident taken place between the accused and Jatinder Singh. He

deposed on the lines of the initial version disclosed to the police.

6. *PW2 is Paramjit Singh, Halqa Patwari, who has deposed regarding ownership and possession of Jatinder Singh over the land measuring 5 bighas 2 biswas comprising khasra no. 689 and further proved the girdawari for the crop Kharif 2015 Ex. PW2/A and jamabandi for the year 2014-2015 Ex. PW2/B.*

7. *PW3 is complainant Jatinder Singh, who has deposed as per the prosecution story, which need not be reiterated here to avoid repetition of discussion. He further proved his statement Ex. PW3/A and recovery memo of bricks Ex. PW3/B.*

8. *PW4 is ASI Nirmal Singh, Investigating Officer in this case, who has also deposed as per the prosecution story, which need not be reiterated here to avoid repetition of discussion. He further proved statement of the informant Ex. PW3/A, ruqa Ex. PW4/A, FIR Ex. PW4/B, rough site plan Ex. PW4/C, recovery memo of bricks Ex. PW3/B, arrest memos of accused Ex. PW4/D to Ex. PW4/G, their personal search memos Ex. PW4/H to Ex. PW4/K and the case property Ex. MO1.*

9. *PW5 is HC Gurjinder Singh, who has also deposed as per the prosecution version, which need not be reiterated here to avoid repetition of discussion. He further proved statement of the informant Ex. PW3/A, ruqa Ex. PW4/A, site plan Ex. PW4/C, recovery memo of bricks Ex. PW3/B and case property Ex. MO1.*

10. *Thereafter, ld. APP for the state closed the prosecution evidence.*

11. *Statement of accused under Section 313 Cr.P.C. was recorded in which all the incriminating evidence adduced and proved against the accused was put across to them. They*

denied all the allegations leveled against them and pleaded false implication in this case. They further pleaded that the land in question is Mustarka Malkan (belonging to Muslims), but they are in possession of the disputed land as they are using the same for tethering their cattle and throw their waste in the said land. They have also placed cow dung cakes and rurian in that place. The complainant wanted to construct wall forcibly at that place to grab this land. They had only requested him and raised objections regarding his construction. In order to suppress their demands, the complainant, in connivance with the police, involved them in the false case. After involving them in this case, they have completed that wall, which exists even now.

12. *In defence, accused examined DW1 Rajinder Singh, who has deposed that he is running studio under the name of Rupinder at Bhawanigarh. He further proved on record photographs of the place of occurrence Ex. D1 to Ex. D6, original CD Ex. D7.*

13. *DW2 is Bakshish Singh, who has deposed that he remained chowkidar of the village w.e.f. 1984 to 1996 and earlier to him, his father was chowkidar of the village. He has seen the disputed land, which was under possession of Jai Ram from the very beginning and the accused are using the said land by way of tethering cattle, to prepare cow dung cakes and for throwing their waste material in the same. He further proved the photographs Ex. D1 to Ex. D6.*

14. *DW3 is Davinder Singh, who has also deposed regarding the ownership and possession of the defendants over the land in question. He further proved the photographs of the land in question as Ex. D1 to Ex. D6.*

15. *DW4 is HC Jagtar Singh, who had brought the summoned record and proved on record copy of application dt. 19.11.2016 Ex.DW4/A and panchayati compromise deed dt. 24.11.2016 Ex. PW4/B.*

16. *Thereafter, defence evidence was closed by order.*

6. The parties were heard at length by the trial Court and the entire record was perused. Upon consideration of the respectful arguments, the trial Court recorded a finding that there were discrepancies in the case of prosecution and the same created a reasonable doubt of the case of prosecution. The benefit whereof had thus been extended in favour of the respondent-accused. It was observed that the onus lay upon the prosecution to establish that the accused-respondents had trespassed into the land of the complainant side. The jamabandi Ex.P2/B was a large tract of land of which the first informant was a co-sharer in joint possession. The Khasra Girdwari also shown that the respondent-complainant to be in joint possession to the extent of his share in various khasra numbers i.e. 316 Min, 683 Min, 685 Min, 686, 389Min, total measuring 26 bighas 15 biswas. The exact description of the land over which the encroachment was alleged to be made by the respondent-accused persons was not established by the prosecution. It was thus recorded that in the absence of the exact determination of the land in possession of the complainant, whether offence of trespassing by the petitioner, into the land of the complainant, was dubious. The Patwari who appeared as PW-2 himself admitting his cross-examination that no demarcation of land had taken place and he was also unaware whether the boundary is adjacent to the disputed land or when they were constructed. Even PW-1 Harpal Singh alongwith PW-4-ASI Nirmal Singh also submitted that no demarcation of the property was conducted to establish as to in which portion of the land, the complainant-petitioner herein was in possession and in which portion, the encroachment and trespass was allegedly attempted to be made by the respondent-accused persons.

7. The defence witness DW-3 Davinder Singh had also been disbelieved by the Court as he also failed to establish the actual physical possession of the respondent-accused persons. It was thus noticed that in the absence of the exclusive possession of the complainant having been established and the demarcation having been carried out, the question of trespass and attempt of encroachment would not be conclusively established.

8. Accordingly, the respondent-accused persons were acquitted.

9. Aggrieved thereof, the petitioner herein preferred Criminal Appeal No. 278/2018 before the Sessions Court, Sangrur. Vide judgment dated 29.10.2021. The said appeal was dismissed by recording as under:-

“12. As per allegations of the prosecution, respondents/accused tried to take forcible possession of $\frac{1}{4}$ Biswa land out of the land measuring 5 Bigha 2 Biswa comprised in khasra No. 689 belonging to complainant Jatinder Singh on the intervening night of 17/18.07.2016 by constructing wall upon it. Complainant Jatinder Singh who came into witness box as PW-3 though stated in his examination-in-chief that on the intervening night of 17/18.07.2016 Jai Ram and his sons namely Gurpreet Singh and Gurmeet Singh alias Kaka and wife Paramjit Kaur were constructing wall in his land measuring $\frac{3}{4}$ Biswa forcibly and when he asked them to stop constructing the wall, an altercation took place between them and the accused persons gave him threat to harm his life, but in his cross examination he has stated that he came to know that the accused had constructed the wall in the morning. He has also admitted that they have not seen the wall being constructed and they did not know about the construction of the wall before 8:00 AM. Harpal Singh alleged eye witness PW-1 has also stated in his cross examination that when he had gone at the place where the disputed land is located, the wall was already existing and he has not seen any person constructing that wall.

He has also stated that he had visited the place at 9:00 AM on 18.07.2016. Thus when both the complainant Jatinder Singh and alleged eye witness Harpal Singh have stated that they have not seen the construction of wall, then merely on the allegations of the complainant raised in his examination in chief are not sufficient to hold that accused Jai Ram alongwith his both sons and wife tried to encroach the land of complainant Jatinder Singh on the intervening night on 17/18.07.2016 by constructing wall upon it. Furthermore, complainant has nowhere stated in his statement on oath about any specific land out of the land measuring 5 Bigha 2 Biswa comprised in khasra No. 689 upon which accused constructed the wall to encroach it. Halqa Patwari Paramjit Singh PW-2 has stated that the entire land is of Mushtarka Malkan and the different people of the village are owners of the said land as per their share. He has also stated that during his tenure no demarcation of the land has taken place in the village regarding the disputed land. He has also stated that police did not apply before him for getting demarcation of the disputed land. Investigating officer ASI Nirmal Singh PW-4 has also stated in his cross examination that he has not obtained the demarcation from the halqa patwari regarding the land mentioned at point A in the rough site plan Ex.PW4/C. Thus, when the land of the complainant was not got demarcated by the investigating officer during investigation then it cannot be presumed that accused tried to encroach $\frac{3}{4}$ Biswa land of complainant out of the land measuring 5 Bigha 2 Biswa comprised in khasra No. 689 forcibly by raising wall upon it.

13. *Hon'ble Supreme Court of India in **Lunaram Vs. Bhupat Singh and Ors., 2010(5) R.C.R (Criminal) 530 (SC)** has held that an appellate Court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be*

innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court. Thus, in view of the ratio of the above said judgment, respondents/accused Jai Ram, Gurpreet Singh, Gurmeet Singh alias Kaka and Paramjit Kaur, who have already been acquitted by the learned trial Court, have double presumption in their favour and as such by taking into consideration the evidence produced on file by the prosecution before the learned trial Court as discussed above, no interference of this Court is required in the L well reasoned judgment of learned trial Court.

14. In view of my above discussion, there is no illegality in the Judgment dated 10.05.2018 passed by learned trial Court and as such, appeal filed by the appellant/complainant Jatinder Singh is dismissed. Record of trial Court be sent back along with copy of this judgment and file of this appeal be consigned to the Record Room, after due compliance.”

10. Learned Counsel for the petitioner *inter alia* contends that the evidence of PW-2 has not been properly appreciated. He makes a reference to the said testimony. He, however, is not in a position to dispute that as per the cross examination of the said prosecution witnesses, as concurrently recorded, it is specifically admitted by him that the land is a joint land of Mustaraka Malkan and that there are different people of the area who are owners of the said land as per their share. The relevant part of the cross-examination of the Halqa Patwari, Kheri Kalan, Village Noorpura reads thus:-

“It is correct that where the khasra and khatauni number are filled, the names are also mentioned against the same. 236, 237 and 238 are khataunis and these are different khataunis. It

is correct that the entire land is of Mustaraka Malkan. The different people of the village are owners of the said land as per their share. During my tenure, no demarcation of the land has taken place in the village regarding the disputed land. No demarcation has taken place as per the record of the disputed land. I have not done any consolidation of the holdings in the village, I do not know when the batts of the village were constructed against the disputed land. I have not prepared the site plan of the disputed land. The police did not apply to me for getting demarcation of the disputed land. We do not record the standing of trees in the individual fields nor are they mentioned against the disputed land. The disputed land is not irrigated by canal water. I do not know if any terms for distributing canal water have been settled in respect of the disputed land. I have not given any statement to the police regarding Girdawri, Voltd."

11. I have heard learned Counsel appearing on behalf of the petitioner at length and have gone through the documents as well as judgments passed by both the Courts.

12. It is evident from the above that the finding have been correctly recorded by the trial Court with respect to the case against the respondent-accused. It was rightly appreciated by the trial Court that there is no evidence on the basis whereof the petitioner-complainant may be said to be in an established exclusive possession of the land in question.

13. For commission of offence of trespass, it is first required to be established that a person-accused has entered upon the property of the complainant in an authorized manner and without permission of the individual. Once the possession of the petitioner/complainant herein over the portion of the land has not established and there is no demarcated area shown to be in exclusive possession of the petitioner herein, it cannot be

assumed that there was an active trespassing into the land belonging to the petitioner.

14. The conclusions drawn by the trial Court and affirmed by the Appellate Court cannot be said to be not based upon correct reading or misappreciation of the evidence on record. The said conclusions, therefore, warrant no interference by this Court.

15. The High Court while sitting in a revisional jurisdiction, does not supplant its opinion for that of the Courts recorded concurrently. If the opinion so recorded, in the conclusions drawn, are plausible conclusions on an objective and meaningful reading of the evidence, such conclusions would not be ordinarily interfered with.

16. Counsel for the petitioner has failed to point out any illegality, perversity, impropriety or misappreciation of evidence and the judgment passed by both the Court. Consequently, finding no merit, the present petition is dismissed.

APRIL 09, 2026

Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

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