

(2011) 08 P&H CK 0239

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Rev. No. 1191 of 2011 (O and M)

Suraj Bhan

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision: Aug. 3, 2011

Acts Referred:

- Penal Code, 1860 (IPC) - Section 323, 324, 326, 34

Hon'ble Judges: Sabina, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Sabina, J.

Respondents No. 2 to 4 had faced the trial under Sections 323, 324, 326, 34 of the Indian Penal Code, 1860 in FIR No. 145 dated 7.8.1999 registered at Police Station Agroha.

2. The trial Court vide judgment dated 21.9.2007 acquitted Respondents No. 2 to 4 of the charge framed against them. Appeal filed by the State against the said judgment was dismissed by the Appellate Court vide judgment dated 20.9.2010. Hence, the present petition by the complainant.

3. Prosecution story, in brief, was that on 6.8.1999 at about 3.00 pm, complainant had gone to water his fields. Bishamber, brother of the complainant, his two sons Sanjay and Rakesh and his wife Seeta Devi were sitting in the fields where Bajra crop had been sown. On raising a lalkara, the accused attacked the complainant. Bishamber, who was armed with a kassigave a blow with it on the left ankle of the complainant. Sanjay gave a lathiblow on the back of the complainant. Seeta Devi and Rakesh gave slaps and fist blows on the person of the complainant. Complainant raised alarm, which attracted his brother Om Parkash to the spot. The motive was that the father of the complainant had leased out the property in the name of Bishamber and he had been demanding his share.

4. In order to prove his case, prosecution examined the complainant as PW-1 and Om Parkash as PW-5. Dr. Arun Gupta was examined as PW-2 and Dr. P.L.Verma was examined as PW-4.

5. Accused in their defence evidence examined DW-1 Kartar Singh Patwari, DW-2 SDO Hoshiar singh. Both the complainant as well as PW-5 deposed as per the prosecution case but it was held by both the Courts below that the prosecution had failed to prove its case. There was civil litigation between the parties. The complainant and accused Bishamber are real brothers. The possibility that the accused had been falsely involved in this case due to the factum of pendency of civil litigation between the parties could not be ruled out. As per the defence evidence, accused Bishamber was working as a Assistant Lineman in Dakshin Haryana Bijli Vitran Nigam Limited. DW-2 had produced the attendance record of accused Bishamber in this regard that he had remained present on duty on 6.8.1999. In these circumstances, the presence of Bishamber at the spot was rendered doubtful.

6. Although the complainant had deposed that Bishamber had inflicted injury on the person of the complainant with a spade and Sanjay had inflicted a lathi blow on his person but as per the medical evidence on record, only one injury was found on the person of the complainant i.e. on the ankle. However, the presence of Bishamber accused, who has alleged to have caused the said injury, at the spot is doubtful as he was on duty at the relevant time. The injuries alleged to have been inflicted by accused Sanjay, Rakesh and Seeta Devi are not corroborated by the medical evidence. In these circumstances, the prosecution case was rendered doubtful. Hence, the Courts below had rightly held that Respondents No. 2 to 4 were liable to be acquitted.

7. No ground for interference by this Court is made out. Accordingly, this petition is dismissed.