

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2213-2024 (O&M)

Decided on 04.04.2025

Mahant Sukhdev Muni

... Petitioner

VS.

State of Punjab & Anr.

... Respondents

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Mohan Singh Chauhan, Advocate for the petitioner

Sandeep Moudgil, J.

(1). This petition under Section 401 CrPC has been filed by the petitioner seeking to quash the impugned judgment dated 18.03.2024 passed by Addl. Sessions Judge, Barnala whereby the appeal against the order of acquittal dated 10.03.2015 passed by the trial court in FIR No.140 dated 22.05.2008 under Sections 447/380/148/149 IPC registered at Police Station City Barnala has been dismissed and respondent No.2 has been acquitted.

(2). Learned counsel for the petitioner/complainant submits that the trial court vide its judgment dated 10.03.2015 acquitted the respondent No.2/accused on the ground that the testimony of the petitioner was not reliable and contradictory ignoring the fact that there are sufficient evidence on record to show that the petitioner was attacked by the respondent No.2/accused with the intention to take possession of the Dera Property and also threatened to kill the petitioner if he did not leave the Dera.

(3). He submits that even the appeal filed against the trial court judgment against the acquittal of the respondent, met with the same fate vide judgment dated 18.03.2024 on the ground that the complainant has failed to prove the case against the respondent No.2/accused and that there was 15 days

delay in filing the complaint and further on the ground that the petitioner resides at place other than the Dera which created doubt on actual management of the Dera. It was also observed by the appellate court that the weapons and stolen articles were not recovered from the respondent No.2.

(4). It is argued that the respondent No.2 has been wrongly acquitted by the courts below despite the facts that he delay in moving the application to SSP was just 15 days and also that on 18.04.2008 when the respondent No.2 trespassed the Dera property and launched an attack on the petitioner with sticks and other sharp weapons, many injuries were suffered by the petitioner for which he was even hospitalized.

(5). Having considered the rival submissions made on behalf of the petitioner, this Court does not find valid ground for interference, particularly for the reason that it has come on record that PW2 Sukhdev Muni Chela Mahant who is the star witness of the prosecution had a contradictory stand in his cross-examination as compared to his version in complaint Ex.PW2/A inasmuch as he was not sure whether the date of occurrence was 18.04.2008. Additionally, the said witness of the prosecution even failed to mention as to how many assailants entered the dera premises since at one point of time when confronted with his earlier statement he failed to mention said fact but later, he stated that around 150 people forcibly entered the dera. A comparative study of the complaint vis-à-vis the cross-examination of the PW2 leave suspicion in the judicial mind as there are many material lacunae and therefore, the testimony of the said witness was rightly discarded by the courts below being unreliable and uncorroborated.

(6). Further as can be seen from the record that there is no eye witness to the incidence except the complainant himself and neither any specific role has been attributed against respondent No.2. That being so, the petitioner-complainant is required to prove its case against the accused beyond all reasonable shadow of doubt as in criminal jurisprudence, the burden of proof lies with the prosecution and unless that is done satisfactorily, respondent No.2 cannot be held to be guilty. In a case involving charges of criminal trespass and theft, it would be complainant PW2 who would have better prosecuted the case but since his testimony itself has been held to be unreliable and untrustworthy, the concurrent finding of fact returned by the courts below cannot be held be perverse or illegal.

(7). In view of the above discussion, there is no legal infirmity or irregularity in the impugned judgment dated 18.03.2024 passed by Addl. Sessions Judge, Barnala as well as the judgment dated 10.03.2015 passed by the trial court. Hence dismissed.

(8). Ordered accordingly.

04.04.2025

V.Vishal

1. Whether speaking/reasoned?

2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No

Yes/No