

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

JAIPUR BENCH, JAIPUR

ORDER

SB Criminal Revision Petition No. 691/2012

Mohan Chand versus State of Rajasthan & anr

31.1.2013

HON'BLE MR. JUSTICE MN BHANDARI

Mr Raj Kumar Goyal - for petitioner

Mr Laxman Meena, PP – for the State

BY THE COURT:

By this criminal revision petition, impugned orders of the trial court so as the appellate court, acquitting non-petitioner for offence under section 323 and 341 IPC are challenged.

Learned counsel for petitioner submits that material exist to show offence under section 323 and 341 IPC, however, ignoring the evidence, order of acquittal has been passed. Medical report also supports prosecution story wherein injury on left thigh has been confirmed. In view of above, order of acquittal may be set aside and, based on evidence, accused non-petitioner No.2 may be convicted and sentenced.

It is a case where concurrent finding of facts exist inasmuch as trial court acquitted the non-petitioner for offence under section 323 and 341 IPC. I find that in the medical report, injuries were found and the aforesaid fact has not been ignored by the trial court, however, contradiction was there in the evidence in reference to the statements. The allegations were made against Mohan Swaroop, Hariom, Shyam Sunder, Dhaniram, Ghanshyam, Jaswant, Krishna and Yudhishtir. The witnesses nowhere stated that anybody inflicted injury other than Dalchand. Looking to the contradiction in the evidence, it was not found to be reliable. PW-1 Chhail Behari and PW-2 – Mahaveer Prasad were declared hostile. The only witness was none else but the petitioner. The appellate court took notice of revenue dispute between the complainant and accused who are none else but relatives. Taking over all case, order of acquittal was passed.

Learned counsel for petitioner referred judgment of this court in the case of “Mithu Singh @ Virendra Singh @ anr versus State of Rajasthan”, reported as 200493) RCrD 511 (Raj.). Therein, based on evidence, conviction was upheld.

If the judgment aforesaid is looked into, there were eye witnesses apart from corroborative evidence which is missing

in the present matter. Two witnesses were declared hostile and third witness was none else but the petitioner himself, who is interested witness.

In the light of the aforesaid and taking note of over all facts and as it is a challenge in the revision petition, I do not find any ground to cause interference in the impugned orders.

In the result, criminal revision petition is dismissed.

(MN BHANDARI), J.

bnsharma

All corrections made in the judgment/ order have been incorporated in the judgment/ order being emailed.

(BN Sharma)
PS-cum-JW