
(2016) 01 P&H CK 0154
In the Punjab And Haryana At Chandigarh
Case No : CRR No. 4477 of 2015 (O&M)

Navdeep Singh and others	Vs	APPELLANT
State of Haryana and others		RESPONDENT

Date of Decision : 27-01-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 391

Citation : (2016) 2 RCRCriminal 382

Hon'ble Judges : Inderjit Singh, J.

Bench : Single Bench

Advocate : Vikramjit Singh, Addl. Advocate General, Haryana, Bijender Kaushik, Advocate, for the Respondent

Final Decision : Allowed

Judgement

Inderjit Singh, J. - The present revision has been filed by the petitioners against State of Haryana and other respondents, challenging the impugned order dated 21.10.2015 passed by learned Addl. Sessions Judge, Ambala.

2. Notice of motion was issued and learned State counsel as well as learned counsel for respondents No.3 and 4 appeared and contested the revision petition.

3. I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

4. From the record, I find that in a State case filed against Navdeep Singh, Hardam Singh, Nirbhey Singh, Harinder Singh and Inder Mohan @ Banti in case FIR No.57 dated 12.03.2005 under Sections 323, 324, 325, 326 and 506 read with Section 34 IPC. Learned Judicial Magistrate Ist Class, Ambala, vide judgment dated 21.03.2012, convicted all the accused under Sections 323 and 324 read with Section 34 IPC and sentenced them accordingly and acquitted all the accused for the offence punishable under Sections 325, 326 read with Section 34 IPC and 506 IPC.

5. The appeals were filed before the Sessions Court by the convicts and also by the complainant. Learned Addl. Sessions Judge, Ambala vide order dated 21.10.2015 remanded the matter back after accepting the application under Section 391 Cr.P.C. for leading additional evidence with the direction to record the additional evidence of the doctor with regard to prove the x-ray report of the injured Mohinder Singh and thereafter proceed to record the statement of accused under Section 313 Cr.P.C. and then afford an opportunity to the accused persons to lead defence.

6. From the record, I find that in the present case, as per the record, no doctor has been examined to prove the injuries and the MLR. The prosecution has examined PW-1 Kuldeep Singh, PW-2 Rajinder Singh, PW-3 Amanpreet Singh, PW-4 HC Balwinder Kumar, PW-5 Karansher Singh and PW-6 EASI Gurcharan Singh and thereafter, the evidence of the prosecution was closed by Court order as the prosecution failed to conclude its entire evidence despite availing several effective opportunities.

7. It is admitted at the time of arguments that the doctor witness has not been examined to prove the MLR i.e. injuries on the person of injured. It is stated at the time of arguments that Mohinder Singh was also not examined as witness in the present case. So, when Mohinder Singh injured could not be examined and injuries on his person are not proved from the evidence and further the doctor, who medico legally examined Mohinder Singh has also not been examined, then there was no purpose to examine the radiologist only to prove the x-ray report of the injured Mohinder Singh. In no way, this evidence i.e. proving of x-ray report only without proving the injuries, can be held as necessary and essential for the just decision of the case. Learned Addl. Sessions Judge, without looking into these facts that when the injuries have not been proved by producing MLR and the doctor, then what purpose will be solved by getting the x-ray report proved.

8. In view of the above discussion, I do not find any merit in the application under Section 391 Cr.P.C. and the judgment passed by learned Addl. Sessions Judge, accepting this application and remanding back the matter is not as per law. Therefore, the judgment dated 21.10.2015 passed by learned Addl. Sessions Judge, Ambala, is set aside.

9. Finding merit in the present petition, the same is allowed. The matter is remanded back to learned Sessions Court to decide the appeals as per law on merits after procuring the presence of the parties.