

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

**RESERVED ON : July 09, 2013
DECIDED ON : August 19, 2013**

+ CRL.A. 1166/2011

MANPREET SINGH @ BOBBY

..... Appellant
Through : Mr.Mahesh Verma, Advocate.

versus

JITENDER SINGH @ SONU & ORS

..... Respondent
Through : Mr.Anil Kumar and Mr.Sunil Singh,
Advocates.

**CORAM:
MR. JUSTICE S.P.GARG**

S.P.GARG, J.

1. Manpreet Singh @ Bobby (the victim) challenges the correctness of judgment dated 26.07.2011 in Sessions Case No.181/2009 arising out of FIR No.697/2007 registered at Police Station Rajouri Garden by which the respondents were acquitted of all the charges.

2. Daily Diary (DD) No.40 (Ex.PW8/A) was recorded on 06.09.2007 at about 10.35 P.M. at police post Raghubir Nagar about a quarrel at RGB-142, Janta Flat, Raghubir Nagar, Delhi. The investigation was assigned to ASI Partap Singh who with Const.Narender Singh went to

the spot and learnt that injured had already been taken to DDU hospital. The Investigating Officer went there and collected the MLC of the complainant. He did not lodge complaint due to pain in head. His statement was recorded on 07.09.2007 at about 07.00 P.M. and the First Information Report was lodged. Statements of witnesses conversant with the facts were recorded. After completion of investigation a charge-sheet was filed under Section 308/34 IPC against the respondents in the court. They were duly charged and brought to trial. The prosecution examined 11 witnesses. In their 313 statements, the respondents pleaded false implication. They also examined 8 witnesses in defence. On appreciating the evidence and considering the rival contentions of the parties, the Trial court by the impugned judgment acquitted the respondents of the charge. Being aggrieved, the complainant/victim has preferred the appeal. It is relevant to note that the State did not challenge respondents' acquittal.

3. Appellant's counsel urged that the Trial Court did not appreciate the evidence in its true and proper perspective. The complainant categorically implicated all the respondents and attributed specific role to them in causing injuries to him. PW-2 (Satnam Singh Khalsa), PW-3 (Manmohan Singh) and PW-4 (Mukesh) corroborated him on all material facts. They had no ulterior motive to falsely implicate the

respondents. There is no conflict in the ocular and medical evidence. As per MLC (Ex.PW10/B) injuries were found on the body of the complainant. Respondent's counsel urged that there are no sound reasons to interfere in the impugned judgment of acquittal which is based on fair appraisal of the evidence.

4. I have considered the submissions of the parties and have examined the Trial court record. A quarrel had taken place between the complainant and the respondents over a trivial issue. It appears that in the quarrel both the parties sustained injuries. The complainant was medically examined and PW-11 (Dr.Samarjeet Singh) proved the MLC (Ex.PW10/B). Nature of injuries was simple with blunt object. It further reveals that respondent No.4 Manpreet Singh @ Monu R/o RGB-142, Janta Flat, Raghubir Nagar also sustained injuries in the incident. The Investigating Officer, however, did not opt to initiate any proceedings against the assailant(s) for the injuries caused to him. Vide MLC No.21127 on 06.09.2007 Manpreet Singh S/o Satnam Singh was medically examined on 6.9.2007 itself at DDU hospital. Nature of injuries are simple with sharp object. The Investigating Officer did not explain as to why no cross-case was registered against the assailants for the injuries caused to Manpreet Singh @ Monu. He (Manpreet Singh @ Monu) has

filed a complaint case under Section 156 (3) Cr.P.C. and the matter is pending for consideration before the court of Metropolitan Magistrate. The complainant admitted injuries on the body of the Manpreet but termed those on 'self-inflicted injuries'. The prosecution did not examine the concerned doctor to ascertain if the injuries found on the body of respondent No.4-Manpreet Singh @ Monu could be self-inflicted. Apparently, the prosecution/complainant has failed to explain as to how and under what circumstances respondent No.4 Manpreet Singh @ Monu sustained injuries with sharp weapon in the incident.

5. There was inordinate delay in lodging the complaint with the police by the complainant. When the Investigating Officer went to the hospital to record the complainant's statement, he did not lodge it. He made statement on the next day at about 07:00 P.M. in which he gave graphic detail as to how and under what circumstances, he sustained injuries. He even alleged that he had lost his mobile, cash and golden chain. MLC (Ex.PW10/B) reveals that the complainant was conscious and oriented. There was no reason/excuse for him not to make statement then and there. It seems that statement (Ex.PW-1/A) was made after due deliberations and consultations. No weapon of offence was recovered in the case from the possession of the respondents or at their instance. The

complainant has alleged that Neeta (since expired) was armed with a Kripan. However, there is no evidence ocular or medical if Neeta caused any injuries with Kripan on the body of the complainant. Presence of PW-2 (Satnam Singh Khalsa), PW-3(Manmohan Singh) and PW-4 (Mukesh) appears doubtful as none of them intervened to save the injured. None of them took the victim to the hospital. They did not corroborate complainant's version if any cash/mobile was lost/stolen in the incident. The Trial Court has discarded their version as they were interested witnesses.

6. Facts and circumstances reveal that it was a quarrel over a trivial issue in which both the sides participated and sustained injuries. It was the duty of the Investigating Officer to find out as to who was the aggressor. Only on the complainant's statement on the next day, the Investigating Officer opted to lodge First Information Report under Section 308 IPC against the respondents and for no apparent reasons, no action was taken against the assailants for the injuries caused to respondent No.4-Manpreet Singh. There was no sound reason to register FIR for attempt to commit culpable homicide when a complainant was discharged on the same day and had not sustained grievous or dangerous injuries with any deadly weapon on the vital organs.

7. The standards to be applied by the High Court while considering an appeal against acquittal is one where the prosecution establishes substantial and compelling reasons, which by and large are confined to serious or grave mis-appreciation of evidence, wrong application of law and an approach which would lead to complete miscarriage of justice. In the present case, the Trial Court listed various grounds on which it acquitted the respondents/accused. All of them, to my mind, are reasonable and none of them can be termed as misapplication of law or wrongful appreciation of the evidence placed before the Court by the prosecution.

8. Appeal against the acquittal is considered on slightly different parameters compared to an ordinary appeal preferred to this Court. When an accused is acquitted of a criminal charge, a right vests in him to be a free citizen and this Court is cautious in taking away that right. The presumption of innocence of the accused is further strengthened by his acquittal after a full trial, which assumes critical importance in our jurisprudence. If two views are possible on the evidence adduced in the case, then the one favourable to the accused, should be adopted.

9. Considering all the facts and the circumstances of the case, I find no infirmity in the impugned judgment. The appeal is unmerited and is consequently dismissed.

10. Trial Court record be sent back forthwith.

(S.P.GARG)
JUDGE

August 19, 2013
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