

**In the High Court of Punjab and Haryana at Chandigarh****CRA-S-2620-SB-2014 (O&M)****Reserved on: 21.11.2024****Date of Decision: 16.12.2024**

Raj Karan

.....Appellant

Versus

Lillu and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA****Argued by:** Mr. Anas Ahmed, Advocate
for the appellant.

Mr. Aditya Yadav, Advocate for respondent No. 2.

Ms. Shanika Khurmi, Advocate
for the remaining respondents.

Proceedings against respondent No. 14 already stands abated.

Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.

SURESHWAR THAKUR, J.

1. The instant appeal is directed against the verdict drawn on 23.3.2013, upon Sessions Case No. 23 of 2012, by the learned Additional Sessions Judge, Jhajjar wherethrough in respect of the charges drawn for the offences punishable under Sections 148, 323, 341, 506 read with Section 149 IPC, he made a verdict of acquittal qua all the accused.

Factual Background

2. The genesis of the prosecution case, becomes embodied in appeal FIR, to which Ex. P-2 is assigned. As per the prosecution story, that on 17.08.2008 complainant Raj Karan (PW-3) moved a complaint (Ex. P-3)

to the SHO, Police Station Beri. The contents of the said complaint are



extracted hereinafter.

"Today in the morning at about 07:00 A.M., I, Raj Karan son of Samer Singh resident of Village Dubaldhan, Pana Chhikyan, Jhajjay, alongwith my wife Mukesh and brother Ajit was going to fields in bullock-cart ('Buggi' in common parlance). When we reached in front of the house of Mint Lal son of Chandu of the village, Mangat son of Rameshwar put his motorcycle in front of the bullock-cart. Narender son of Ishwar raised a Lalkara (by uttering 'Inko Samaar Do') that they should be taught a lesson. In the meantime, Anand son of Rameshwar, Manoj & Parmod sons of Mangat Ram, Ved Parkash son of Rameshwar, Lillu, Rajesh, Bije, sons of Mangtu. Mangtu son of Mint Lal. Krishan son of Mangtu, Shiv Narain son of Sampat. Hari Kesh son of Rameshwar, Jagat son of Dava Chand. Subhash son of Jai Kishan came out from the house of Mint Lal carrying 'Farsa', 'Lathi. Jelly', etc., and opened the attack. Mangat. Manoj and Bije inflicted Lathi and farsa blow to the complainant Raj Karan. Ved Parkash, Krishan, Parmod, Jagat inflicted jelly and farsa blow upon Ajit. When Rajbala wife of Raj Singh intervened to rescue the complainant party, Mangat and Ved Parkash opened attack with Farsa upon her. Rajesh and Shiv Narain inflicted lathi blows to Sukhbir son of Mool Chand Mangtu and Subhash given jelly blow to Bhagat son of Lakhi Ram. Anand and Harikesh given danda blow to Sunil. Before leaving the spot they also extended threatening with the dire consequences. Action be taken against them."

3. After recording the above statement of complainant at 11:00 A.M., on 17.08.2008, the investigating officer concerned, made his endorsement upon the complaint (supra). On the basis of the said statement, the appeal FIR became registered.

Investigation proceedings

4. During the course of investigations, injured Rajbala, Sukhbir, Sunil, Bhagat, Raj Karan and Ajit were sent to Government Hospital, Beri for medical examinations. Injured Ajit, Raj Karan and Sunil were medically examined. Site plan was already prepared in cross-case titled as 'State Vs Raj Karan & other. The statements of the witnesses were recorded under Section



161 Cr.P.C. The investigating officer concerned, moved an application (Ex. P-8) seeking the medical opinion regarding the nature of the injuries on the person of Ajit. The Doctor vide his opinion (Ex.P8-A) declared the injuries simple in nature. The investigating officer concerned, moved another application (Ex.P-15) regarding the nature of the injuries on the person of injured Rajbala. Her injuries were also opined to be simple in nature. After conclusion of investigations, the investigating officer concerned, proceeded to institute two reports under Section 173 of the Cr.P.C., before the learned committal Court concerned.

Committal Proceedings

5. Since the learned Court concerned observed that the present case being a cross-case is required to be tried along with the cross-case, pending before the Court of Sessions, thereby the learned Court concerned, through a committal order made on 1.4.2010, hence proceeded to commit the accused to face trial before the Court of Session.

Trial Proceedings

6. The learned trial Judge concerned, after receiving the case for trial, after its becoming committed to him, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw charges against the accused for the offences punishable under Sections 148, 323, 341, 506 read with Section 149 IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

7. In proof of its case, the prosecution examined 08 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence.



8. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused pleaded innocence, and, claimed false implication. Though, the accused chose to lead evidence in their defence, however, they did not lead any witness into the witness box.

Submissions of the learned counsel for the appellant

9. The learned counsel for the has submitted before this Court, that the reasons assigned by the learned trial Judge concerned, thus for making an order of acquittal, upon the accused are extremely frail, besides are not based upon a sound appreciation of the evidence on record. Therefore, he contends, that the impugned verdict of acquittal be quashed, and, set aside.

Submissions on behalf of the learned counsels for the accused-respondents

10. On the other hand, the learned counsel for the accused-respondents submit, that the verdict of acquittal as has been challenged before this Court, is well merited, thus it does not require any interference being made by this Court.

Inference of this Court

11. Before proceeding to delve into, and, to also make an adjudication, upon the contentions (supra), as became addressed before this Court by the learned counsel for the appellant, and, by the learned counsel for the accused, it is deemed necessary to extract the relevant paragraphs borne in the impugned verdict, wherein, becomes enclosed the reasons for recording the findings of acquittal. The said relevant paragraphs are reproduced hereinafter.

“x x x x

16. Rajkaran (PW2), Sunil (PW4). Sukhbir (PW5) and Raj Bala



(PW6) are the independent witnesses of the present case, who also have allegedly sustained injuries in the occurrence. All the four are from the same family. Thus, no independent witness has been joined or examined by the prosecution despite the fact that occurrence has allegedly taken place with village area in the day time. None amongst the PWs has any answer for the injuries on the person of accused party. PW5 to PW7 had deposed that on hearing the noise, they went to the spot for rescuing persons of their party, but sustained injuries at the hands of accused party. Meaning thereby that they had not seen the beginning of the occurrence and was attracted to it only at a later stage. It shows that they have no answer to the genesis of the occurrence as the fight was not ignited before them. They, however, taken an affirm stand that none from their side had caused any injury to accused persons in their self defence and it makes the things more complicate as accused persons are having more injuries then the complainant party. The manner of occurrence described by PWs is contrary to natural human conduct. It is remarkable that these PWs are facing the trial under Section 307, IPC in the connected cross- case. They have every reason to give a tailored statement to save themselves as well as their family members. Resultantly, these PWs cannot be considered as a trustworthy witnesses. On the other hand, none appeared in the witness-box from defence-side. It shows that both the parties are hiding the real cause of the occurrence and the manner in which the fight ensued.

x x x x

17. Both the parties have developed a well matched rival version on the supposition that persons of their side were being beaten by the rival side and all the persons subsequently entered only to save them. In such a situation court cannot propound its own theory to make out a new case after rejecting the versions of both the sides.

x x x x

18. It is very difficult in the present case to separate the grain from the chaff. It could not be ascertained with reasonable certainty that who mounted the first attack and how the fight



actually ensued. Each party tried to throw the blame on the other. The witnesses have given a completely distorted version. If these eye-witnesses are not interested in disclosing the correct facts and their testimony is tailored to the requirement of their own defence, then how the court can device and find out the truth.

x x x x

19. Having come to the conclusion that the incident in all probability took place in a manner different than the one suggested by the prosecution, this court is left with no alternative but to give the benefit thereof to the accused persons. Accordingly, accused persons are hereby acquitted from all the charges leveled against them.

x x x x”

12. Initially, the learned trial Judge concerned, proceeded to disbelieve the testifications of PW-2, PW-4, PW-5 and PW-6, thus on the ground that since they are the injured witnesses, thereupons when they are not independent witnesses, nor therebys they rendered an independent account vis-a-vis the crime event, as such, they have rather rendered an interested, and, a tainted version vis-a-vis the crime incident.

13. Furthermore, the learned trial Judge concerned, has also proceeded to disbelieve the testimonies of PW-5 and PW-7, on the ground that the said witnesses have not witnessed the genesis of the occurrence, but have arrived at the crime site post, the delivery of the injuries upon the complainant party.

14. Be that as it may, the learned trial Judge concerned, after well appraising the testifications rendered by the prosecution witnesses (supra) ultimately concluded that since the injuries entailed by the accused in the relevant scuffle, which erupted with the complainant party, thus remained

not tangibly explained by the complainant, therebys a conclusion was made



that, as such, evidently a free fight emerged inter se all concerned. Resultantly therebys, it is concluded, that each of the warring factions respectively delivered injuries on the persons of the opposite combatants merely in the exercise of their respective rights of private defence of property(ies) or of body(ies).

15. The said reason is well banked upon the appraisal of the testifications of the prosecution witnesses. Moreover, the said reason is also well grounded upon the supra evident fact vis-a-vis, there being suppression of the true genesis of the crime event, besides is firmly entrenched in evidence disclosing, that each of the rival combatants indulging in a free fight, thus bereft of any or the other respectively exceeding the right of private defence, which was thus required to thwart the assault, as became perpetrated on their respective persons.

16. The further effect of the above, is that, since the assaults, if any, which became respectively perpetrated upon the respective accused, and, the complainant party in the respective FIR and in cross-case, thus led to the making of the verdicts of acquittal, which are the subject matters in the instant appeal and in *CRA-D-841-DB-2013*, but reiteratedly necessarily became engendered from a free scuffle, which erupted amongst the concerned. Moreover, since the eruption of the said free scuffle was a sequel of both the parties respectively exercising their rights of private defence of their respective bodies.

17. In consequence, since this Court has for reasons recorded in Criminal Appeal bearing No. *CRA-D-841-DB-2013*, has dismissed the said appeal, and, has affirmed the verdict of acquittal, as became recorded by the learned trial Judge concerned, upon Sessions Case No. 38 of 2012,



thereupon since the said reasons are well banked upon-

- (a) there being an eruption of a free scuffle amongst the concerned,
- (b) upon each well exercising the right of private defence of their respective bodies,
- (c) nor each exceeding the said right,

18. Thereupon, to ensure that parity of treatment is assigned to each of the members of the warring factions, besides to ensure that no conflicting verdicts become recorded in respect of the main FIR, and, in respect of the cross-case, which became separately tried, and, whereons separate verdicts of acquittal became passed by the learned trial Judge concerned. Moreover, since the verdict passed in cross-case bearing Sessions Case No. 38 of 2012, and, which became challenged before this Court by filing of CRA-D-841-DB-2013, has been upheld by this Court, thereby the instant appeal (CRA-S-2620-SB-2014), thus is also dismissed as such but after affirming the order of acquittal as made by the learned trial Judge concerned.

Final order

19. The result of the above discussion, is that, this Court does not find any merit in the instant appeal, and, is constrained to dismiss it. Accordingly, the appeal is dismissed. Consequently, the impugned verdict of acquittal, as made by the learned trial Court concerned, is maintained, and, affirmed. The case property, if any, be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal.



- 20. Records be sent down forthwith.
- 21. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 16, 2024
Gurpreet

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No