

In the High Court of Punjab and Haryana at Chandigarh

CRA-D-481-DB-2010 (O&M)

Date of decision: 01.09.2015.

Ranjit Singh

..... Appellant

Vs.

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Argued by: None for the appellant.

Ms. Manjari Nehru Kaul, Additional Advocate General, Punjab

RAJ RAHUL GARG.J.

This appeal is directed against the judgment dated 22.09.2009 rendered by learned Sessions Judge, Bathinda, whereby accused Ranjit Singh was convicted for committing offence punishable under Section 302 of Indian Penal Code (for short 'IPC'). Vide order of sentence of even date, he was sentenced to undergo imprisonment for life and to pay a fine of ₹5,000/-. In default of payment of fine, he was to further undergo RI for two years.

On the statement of Mewa Singh, complainant which is Ex. PA, the police machinery was set in motion. Mewa Singh is the father of deceased Charanjit Singh. Rajwinder Singh was also Mewa Singh's son.

As per prosecution case, on 28.04.2008, Charanjit Singh and Ranjit Singh, accused quarreled near country made liquor vend, near Bus Stand of village Jai Singh Wala, on the point that Ranjit Singh was

demanding money from Charanjit Singh for liquor, to which he refused. On coming to know about the aforesaid quarrel between the two, Mewa Singh, accompanied by his son Rajwinder Singh, went to liquor vend to bring back Charanjit Singh. It was about 7:00 P.M. Ranjit Singh-accused returned armed with '*Sota*'. Immediately on his arrival, Ranjit Singh, gave a '*Sota*' blow on the head of Charanjit Singh on the right side, as a result of which blood gushed out of the head of Charanjit Singh. Mewa Singh and Rajwinder Singh started taking care of Charanjit Singh and inquired from him about the reason of the dispute, on which he told that Ranjit Singh was demanding money for liquor from him. Ranjit Singh had run away from the spot along with '*Sota*'. Charanjit Singh, was removed to Civil Hospital, Sangat, where first-aid was given to him, thereafter, he was referred to Government Hospital, Bathinda. Keeping in view the serious condition of Charanjit Singh, he was referred to Adesh Hospital, Bathinda. When Charanjit Singh, was being taken to Adesh Hospital, he died on the way near village Bhucho Khurd. Mewa Singh brought back the dead body of Charanjit Singh to his village.

On 29.04.2008, in the morning, he accompanied with Jagjit Singh, Lamberdar, had gone to the police station. Davinder Singh, along with police officials met them near Bus Stand of village Phulo Mithi, where, statement of Mewa Singh, Ex.Panch, was recorded as Ex.PA. On this statement, endorsement Ex.PA/1 was made and then the same was sent to police station for registration of FIR, whereupon, formal FIR Ex.PA/2 was recorded. Inquest report Ex.PB was prepared. Post-mortem of the dead body of Charanjit Singh was got conducted. Dead body was handed over to the

parents of the deceased. Clothes of the dead body were taken into possession through recovery memo Ex.PD. Site plan of the spot Ex.PT was prepared. Simple earth as well blood-stained earth were lifted from the spot vide memo. Ex.PE.

Accused was arrested on 30.04.2008. On interrogation, accused suffered a disclosure statement Ex.PG to the effect that he kept concealed '*Sota*' in the heap of cotton sticks lying adjoining his house towards eastern side to which he alone knew and can get the same recovered by giving *nishandehi*. In pursuance with this disclosure statement Ex.PG, '*Sota*' was got recovered by the accused and the same was taken into possession after converting it into a sealed parcel, duly sealed with the seal of 'SS' vide recovery memo. Ex.PH. Site plan of the place of recovery of '*Sota*' Ex.PH/1 was prepared. The clothes of the deceased and soil lifted from the spot, were sent to laboratory for chemical analysis. Vide report FSL Ex.PU, human blood was found on the clothes of the deceased as well on the soil. '*Sota*' was also sent for analysis. Vide report Ex.PV, it was also found stained with human blood.

Accused Ranjit Singh, was also got admitted in Civil Hospital, Bathinda. The doctor sent intimation Ex.PR to the police station, Civil Lines, Bathinda, whereupon ASI Subegh Singh recorded statement Ex.PK of Ranjit Singh on 29.04.2008 at 7:45 A.M. and decided to investigate the same in the case already registered under Section 302 IPC. DDR Ex.PK/2 was recorded in this regard. Ranjit Singh stated before the police that on 28.04.2008, he had gone to fetch water from the water course of the village.

He was going to his Barani field towards the Bus Stand. At about 3:00 P.M.

Charanjit Singh, son of Mewa Singh, started throwing brick-bats on him. Two brick-bats hit on his head; one on the left side and the other on the centre of the head towards left side. One brick-bat hit his back side. Some villagers intervened and he was rescued, then he had gone towards his fields. At about 7:00 P.M., he again went near the liquor vend. Charanjit Singh, again started quarrelling with him and gave slaps on his face. Ranjit Singh went away from there. However, he fell near the door of Mukhtiar Singh, resident of Naruana, from where, he was removed by the volunteers of Sahara Club, Bathinda and brought to Civil Hospital, Bathinda. As per Ranjit Singh, the motive for crime was that accused had demanded money from Charanjit Singh, as a result of which, Charanjit Singh had beaten him up. The MLR of Ranjit Singh is Ex.PQ. After completion of necessary investigations, the challan was put in the Court.

Accused was charge-sheeted for committing offence under section 302 IPC to which he did not plead guilty but claimed trial.

After taking entire prosecution evidence, statement of accused under Section 313 Cr.P.c. was recorded wherein he denied each allegation of the prosecution and pleaded his innocence.

The defence taken by the accused is this; that he has been falsely implicated in this case after due deliberations and consultations and after introducing false related witnesses. He was arrested from Civil Hospital, Bathinda on 29.04.2008 and was confined in illegal custody. He neither made any disclosure statement before the police nor anything was recovered from his possession. Police obtained his signatures on a blank paper forcibly. A false DDR has been recorded in order to help the

complainant party.

We have heard learned State counsel besides appraising the entire material and evidence coming on record.

In this case, the prosecution witnesses are Mewa Singh (father of the deceased) and Rajwinder Singh (brother of the deceased). It is the case of the appellant-accused that they being relations, have been introduced as witnesses in this case, whereas, they were not present at the spot. Rajwinder Singh as PW2 deposed that on 28.04.2008 at about 4:00 P.M., they had employed a combine and that party was somewhat related to them. After the completion of work of combine, they asked that they should be served liquor. His brother Charanjit Singh, went to liquor vend, situated at Badal road. He does not know whether the combine people took liquor or not since they were in the fields. This statement of Rajwinder Singh does not inspire confidence in the mind of the Court regarding sequence of the events and the presence of Mewa Singh and Rajwinder Singh at the spot. It is nowhere explained as to when Charanjit Singh (deceased) was sent for liquor, what has happened to that, whether he returned with liquor or not, whether combine people took liquor or not and further under what circumstances, they reached liquor vend and at what time. Mewa Singh as PW1 propounded a different story. He did not state about the sending of Charanjit Singh to liquor vend for fetching liquor for combine people. He deposed that when they had gone to their house from the fields, they were informed by ladies that there had been some quarrel between Charanjit Singh and Ranjit Singh at about 4:00 P.M. On this, he along with Rajwinder Singh, had gone to liquor vend, where Charanjit Singh, was sitting on a cot.

They inquired from Charanjit Singh about cause of quarrel with Ranjit Singh. Ranjit Singh came there with '*Sota*' and gave a blow on the head of Charanjit Singh, whereupon a shower of blood came out of his head. He tried to rescue Charanjit Singh, who disclosed him that accused was demanding money for purchasing liquor and on his refusal, the quarrel took place. In this quarrel, Charanjit Singh threw brick-bats on the person of Ranjit Singh, which hit his head. Had Charanjit Singh disclosed about throwing of brick-bats by him on Ranjit Singh at the time of alleged quarrel taken place at 4:00 P.M, certainly Mewa Singh, would have made a mention about it in his statement Ex.PA but he did not state so before the police at the time of getting his statement Ex.PA recorded by the police. In the statement Ex.PK, allegedly made by Ranjit Singh, the factum of throwing of brick-bats by Charanjit Singh on the person of Ranjit Singh, is recorded, only therefore, it appears that Mewa Singh (PW1) has tried to improve his statement by stating that Charanjit Singh disclosed him that on his refusal to give money to Ranjit Singh for purchase of liquor, he threw brick-bats on him, which hit his head. Even during the course of his cross-examination, he deposed that he was not informed in the fields regarding quarrel at 4:00 P.M. He was told about that at 6:30 P.M. when he returned from the fields. Mewa Singh (PW1) also deposed that on the day of occurrence Charanjit Singh, did not accompany them to the fields. On that day, he was at home. If that was so, the statement of Rajwinder Singh (PW2) that he was sent for fetching liquor for combine people, is contradictory to the statement of PW1. Since, Ranjit Singh was also medico-legally examined for injuries on his person vide MLR Ex.PQ, therefore, in order to explain the injuries on

his person, the story of throwing of brick-bats was brought in which was absent in the FIR. Even Rajwinder Singh (PW2) was also confronted on this account with his statement Ex.DA as he deposed during the course of his cross-examination that he had got recorded in his statement that Charanjit Singh disclosed that, at about 4:00 P.M., he had given a brick-bat blow to the accused which was not mentioned in his statement Ex.DA. Mewa Singh (PW1) during the course of his cross-examination deposed that they were standing near Charanjit Singh when accused gave a '*Sota*' blow on his head and Charanjit Singh was sitting on the cot. He further deposed that blood fell on the cot and on the ground. He further deposed that blood-stained cot was left at the liquor vend but what has happened to this cot is not known to anybody. Why the police was not shown the cot and why the police did not lift the blood from the cot. This fact also creates doubt regarding the presence of witnesses and regarding series of events as set out in the prosecution case.

ASI Subegh Singh (PW5), deposed that on 30.04.2008, the accused were arrested by him from his village and memo. Ex.PJ was prepared in this regard. Sub-Inspector Davinder Singh (PW9), Investigating Officer of this case, deposed that he conducted the raid on the house of accused Ranjit Singh. His house was found locked. He received information that accused Ranjit Singh was admitted in Civil Hospital, Bathinda. He deputed ASI Subegh Singh for necessary action. ASI Subegh Singh (PW5) when recalled for further examination-in-chief recorded on 21.03.2009 deposed that three police officials were deputed in the Hospital near the bed of patient Ranjit Singh. Ranjit Singh was got discharged from the Hospital

on the next day. During the course of his cross-examination he deposed that three police officials deputed in the hospital were summoned by him on account of VIP duty. In the next breath, he deposed that he had not summoned these police officials but SHO Davinder Singh had summoned these police officials. This fact again creates serious doubt regarding the arrest of accused as to when and from where he was arrested because after arrest of the accused, as per prosecution story, he got recovered blood-stained '*Sota*', after sufferance of disclosure statement. When accused was admitted in the hospital and three police officials were deputed in the hospital, it is not understandable that any police official would withdraw the police force on account of VIP duty and leaving the accused of a serious offence alone, so as to make a room for him to escape. So far as recovery of '*Sota*' from the possession of accused is concerned, the prosecution case is not free from doubt. Rajwinder Singh (PW2) deposed that at the time of recovery, the police stayed at the house of accused for about 45 minutes. Chowkidar Baldev Singh and Jarnail Singh were present at the house of accused. Chowkidar and Jarnail Singh also signed the memo but the recovery memo Ex.PH does not contain the signatures of Chowkidar Baldev Singh and Jarnail Singh. If independent witnesses were available and if as per Rajwinder Singh (PW2) Chowkidar also signed recovery memo, then non appearance of signatures of independent witnesses on the recovery memo. Ex.PH further makes the presence of Rajwinder Singh (PW2) doubtful. At the time of recovery of '*Sota*', ASI Subegh Singh (PW5) also deposed that Namberdar's signatures were obtained on recovery memo but he does not remember his name. Again recovery memo. Ex.PH does not

contain the signatures of any Numberdar. This statement of PW5 further makes the factum of recovery of '*Sota*' from the possession of accused doubtful. PW5 also deposed about the presence of member Jarnail Singh son of Santa Singh, at the time of recovery of '*Sota*'. He also deposed that he remained for 1-½ /2 hours at the place of recovery.

Above all, as per the disclosure statement Ex.PG, accused disclosed having kept concealed one '*Sota*' in the heap of sticks lying adjoining his house towards eastern side whereas site plan of the place of recovery of '*Sota*' Ex.PH/1 shows Mark 'A' is the place from where accused brought blood-stained wooden '*Sota*' after taking it out of the heap of sticks and this place is towards western side of the house of accused. With this evidence on record, even the factum of recovery of wooden '*Sota*' at the instance of accused as stated by the prosecution witnesses and as per prosecution story, is also not free from doubt.

For the reasons recorded above, since the prosecution has failed to prove its case against accused beyond reasonable doubt, therefore, the present appeal is accepted and the impugned judgment of conviction dated 22.09.2009 and order of sentence of even date are set aside and by giving benefit of doubt, the appellant-accused is ordered to be acquitted of the charges framed against him. If the accused is in custody, he be released forthwith, if not required in any other case.

The appeal stands allowed.

(HEMANT GUPTA)
JUDGE

(RAJ RAHUL GARG)
JUDGE

September 01,2015
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