

322 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA S-2432-SB of 2004 (O&M)
Decided on: 23.9.2015.

Pal Singh and others

... Appellants

Versus

State of Punjab

... Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Ms. G.K. Mann, Advocate,
for the appellants.

Mr. Mehardeep Singh, DAG, Punjab.

JITENDRA CHAUHAN.J.

This appeal is directed against the judgment of conviction and the order of sentence dated 22.11.2004, passed by Judge Special Court, Amritsar whereby the accused appellants were convicted and sentenced as under:-

Offence	Sentence	Fine	In default
148 IPC	RI for 1 year	--	--
447 IPC	--	Rs.400/-	
379 IPC	RI for 1 year	--	--
506 IPC	RI for 6 months	--	-

However, all the substantive sentences were ordered to run concurrently.

In brief, case of the prosecution is that complainant

Swaran Singh was working as Supervisor and looking after the land of

Rai Sahib Mehta. On 6.5.2001 at about 10.30 PM Kashmiro wife of Bhagwan Singh resident of village Bhilowal and Jagtar Singh son of Bhagwan Singh were sleeping in the room adjoining the tubewell of Rai Sahib Mehta. Jasbir Singh son of Bhagwan Singh had gone to the fields for looking after the bundles of harvested wheat crops and he informed that Sukhcharan Singh, Gurcharan Singh sons of Harbhajan Singh, Pal Singh, Dilbagh Singh, Jagir Singh, Kashmir Singh sons of Dalip Singh, Ninda, Minda, Jinda sons of Lakha Singh residents of Bhilowal, Japnam Singh son of Didar Singh, Raju and Titoo sons of Japnam Singh residents of Bhilowal had come to the fields of Rai Sahib Mehta after taking liquor. Sukhcharan Singh and Gurcharan Singh were armed with spears whereas remaining accused were armed with dangs. They forcibly started harvesting wheat crop with the help of combine machine from the land bearing killa No.64/2/3(3-4), 64/3 (8-0), 64/8 (6-9), 51/13 (8-0), 51/18 (7-19), 51/23 (7-9). When the complainant party objected, the accused gave a threat to kill them and stated 'kutio churhio' if they came forward, they would be killed and under the fear, the complainant party came back. After harvesting the wheat, the bags were loaded in the tractor make Ford 3600 No. PBN 2510 attached with trolley. An intimation to this effect was given by Swaran Singh complainant to Rai Sahib Mehta. Due to fear, Swaran Singh did not approach the Police during the night and on the next morning, he along with Rai Sahib Mehta and others went to the Police, where the Police recorded his statement Ex. PA whereupon FIR was recorded against the

accused persons.

Tractor along with trolley loaded with wheat weighing 15 quintals, 28 kilograms wheat grains contained in 15 bags each weighing 100 kgs and one bag containing 28 kgs were recovered and the same were taken into Police possession. Accused were arrested and after completion of investigation, challan/report under Section 173 Cr.P.C against the accused-appellants was presented in the Court.

Copies of challan and other documents were supplied to the accused free of cost in terms of Section 207 Cr.P.C.

Charges under Section 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Section 148, 447, 379 and 411 IPC and 506 IPC were framed against the accused to which they pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined PW-1 Swaran Singh-complainant, PW-2 Jasbir Singh, PW-3, Rai Sahib Mehta, PW-4 Jagtar Singh, PW-5 HC Lakhwinder Singh, PW-6 Gurnam Singh, PW-7 HC Jasbir Singh, PW-8 SI Shangara Singh and closed the evidence.

Statements of accused were recorded under Section 313 Cr.P.C. All the incriminating circumstances appearing in the prosecution evidence were put to the accused to which they denied and pleaded that they have been falsely implicated on account of previous litigation between the parties and the present FIR is the counter blast

just to put pressure upon them to withdraw case under Section 307 IPC

registered against Rai Sahib Mehta.

No defence witness was examined by the accused.

After appraisal of the evidence, learned trial Court vide the judgment of conviction and the order of sentence dated 22.11.2014 convicted and sentenced the accused appellants for the offences as detailed earlier. However, the accused were acquitted of the charges under Section 3(1)(x) of SC and ST (Prevention of Atrocities) Act, 1989 and Section 411 IPC.

Feeling dis-satisfied with the aforesaid judgment and order dated 22.11.2004, the accused appellants have directed this appeal.

During trial, accused Kashmir Singh expired, so, proceedings against him stood abated.

Learned counsel for the appellants contends that the prosecution has failed to prove its case beyond a reasonable shadow of doubt. She further contends that Rai Sahib Mehta, who is the owner of the land in question, is an influential person. He was nurturing a grudge against the accused. On account of hostility between the parties, false case had been registered against the accused-appellants. She refers to the cross-examination of PW-3, Rai Sahib Mehta wherein, he has admitted that a civil litigation with regard to 15 acres of land was pending between them and the same went upto the Hon'ble Supreme Court. She further contends that one criminal case under Section 307

IPC was also lodged at the instance of accused-appellants against the

said Rai Sahib Mehta. It is further the contention of learned counsel for the appellants that it is the case of the prosecution that from 5 acres of land, 100 quintals of wheat was harvested and stolen by the accused. Yielding of 100 quintals of wheat out of 5 acres of land seems illogical. She further submits that no moulds or marks of tractor were taken by the Investigating Officer. It creates doubt in the case of the prosecution. Neither the number of the harvesting combine was mentioned by the complainant nor the same was recovered. The alleged tractor trolley does not belong to the appellants.

On the other hand, the learned State counsel submits that the prosecution has successfully proved its case against all the accused-appellants. They have been rightly convicted and sentenced by the trial Court. The prosecution has also led documentary evidence. There is a jamabandi Ex.P-1 and khasra girdwari Ex.P-2 in respect of the land in question. A perusal of the same shows that Rai Sahib Mehta is in settled possession of the land in question. The allegations of theft and criminal intimidation have been proved from the statement of Swarn Singh. Learned State counsel supports the judgment and order passed by the trial Court.

I have heard learned counsel for the parties and have gone through the record of the case.

It is an admitted fact that there is a long standing enmity between the parties. A civil litigation with regard to the same land wherefrom, alleged theft had been committed is pending between

the parties and the matter went upto the Hon'ble Supreme Court. Prior to the present occurrence, one criminal case had been registered under Section 307 IPC against Rai Sahib Mehta at the instance of the accused-appellants. The long standing enmity between the parties is a strong suggestive of the fact that the complainant had motive to falsely implicate the accused-appellants. The alleged eye witness to the occurrence is none else but the employee of Rai Sahib Mehta. The possibility of witness being interested in conviction of the accused-appellants cannot be ruled out. This aspect of the matter, creates doubt in the mind of the Court with regard to veracity of case of prosecution. The benefit of which goes to the accused. The matter does not rest here. It is the case of the prosecution that the accused forcibly harvested the wheat crop on 6.5.2001. The land comprised five acres. Out of fear, Swaran Singh did not take any action. Jasbir Singh and Jagtar Singh were also with him but none of them could tell the number of harvesting combine. As an estimate, the harvesting combine must have remained at the spot for about 3-4 hours for harvesting the crop but the complainant party have failed to explain as to why they could not note down the number of the combine.

The cumulative effect of what has been observed is that a dent stands created in the story of of prosecution. There is a reasonable doubt of false implication of the accused on account of hostility generated by the long standing dispute between the parties.

The benefit of doubt goes to the accused. Consequently, the appeal

stands allowed and the impugned judgment of conviction and order of sentence passed by the trial Court stand set aside. The accused are acquitted of the charges. The accused are on bail. The bail-bonds and surety bonds stand discharged.

23.9.2015.
SN

(JITENDRA CHAUHAN)
JUDGE