

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-D-1451-DB of 2014

DATE OF DECISION : February 04, 2015

Sukhdev Singh

...Appellant

Versus

Gurpreet Singh @ Koki and others

...Respondents

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. A.S. Virk, Advocate for the appellant.

M.JEYAPPAUL, J.

1. The victim Sukhdev Singh has preferred the present appeal challenging the verdict of acquittal recorded by the trial Court.
2. It is the brief case of the prosecution that on 27.10.2011 at about 1.30 P.M., when Sukhdev Singh (PW1) was proceeding along with his sons PW9 Balkar Singh and Sharan and his wife Kaushalya Kaur on the tractors Swraj 855 and Ford 3600, the respondents 1 to 7 along with other accused armed with Gandasis and swords stopped their vehicles. Accused Koki and Satpal threw diesel oil on the tractors. Accused Koki took a bunch of Parali and put both the tractors on fire by lighting a match stick. The occupants of the tractors jumped out of the tractors and saved their lives. The above complaint was lodged by

complainant Sirmal Singh, brother of the appellant but he passed away even before the trial was taken up by the trial Court.

3. The accused pleaded not guilty of the charges under Sections 148, 341, 307 and 435 read with Section 149 of the Indian Penal Code.

4. The trial Court having thoroughly analysed the evidence on record, came to the conclusion that the prosecution failed to establish beyond reasonable doubt the charges framed as against the accused.

5. The learned counsel appearing for the appellant would submit that the photographs Ex. D22 to Ex. 32 would go to establish that the tractors on which Balkar Singh, Kaushalya Kaur, Sukhdev and Sharan were traveling were set on fire by the accused, but the trial Court failed to give credence to those photographs. It is his further submission that the accused having formed an unlawful assembly armed with Gandasis, made an attempt to commit murder by setting fire to two tractors occupied by the witnesses. Therefore, it is his submission that the trial Court had not properly appreciated the evidence on record.

6. There is no dispute to the fact that there had been a litigation going on between the parties on account of a land dispute between them. The defence had pleaded that both the tractors were more than 15-20 years old and had been used only to fabricate a case. PW1 Sukhdev Singh and PW5 Sirmal Singh could not give out the names of the owners of the tractors. PW1, in fact, admitted during the course of cross-examination that he was not aware of the exact year,

mode and make of the tractors. It is an admitted version of the witnesses examined on the side of the prosecution that both the tractors had been purchased before 1997-98. In other words, the tractors used in the occurrence had lost their utility. The trial Court had rightly evaluated the photographs Ex. P30. One of the photographs would lead to a conclusion that the front body of the engine was missing in the tractor and that the tractor was in a dilapidated condition. In other words, useless junk vehicles had been used in the occurrence.

7. Though the prosecution witnesses were present along with the villagers, no body made an attempt to extinguish the fire. 17 persons had allegedly gathered with lethal weapons to attack the prosecution party but unfortunately, none of them caused any injury to the prosecution party. Except the interested testimony, there is no other independent corroboration found on record.

8. In our considered view, the trial Court, in the above facts and circumstances has rightly doubted the version of the prosecution and acquitted the accused. We do not find any merit in the appeal. Therefore, the appeal stands dismissed.

**(M. JEYAPPAUL)
JUDGE**

**(DARSHAN SINGH)
JUDGE**

February 04, 2015

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