

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

Criminal Appeal No.D-1578-DB of 2014

Date of Decision : February 12, 2015

Kuldeep Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE DR. SHEKHER DHAWAN

Present : Mr. R.S. Bains, Advocate.

T.P.S. MANN, J.

The appellant, who had received injuries in the incident, which had taken place on 19.10.2009 at about 7.00 p.m., has filed the present appeal for challenging the acquittal of respondents Thakur Dass and Kamaljit Singh @ Kamal of the charges under Sections 307/326/324/34 IPC.

Aforementioned Thakur Dass and Kamaljit Singh @ Kamal, along with Paramjit Singh @ Laddu and Sartaj Pal Singh were named as accused by the appellant while making statement before ASI Dilbag Singh on 2.12.2009. It was stated therein that on 19.10.2009 at about 7.00 p.m., the appellant was present at his house where Davinder @ Gama came and told him that Paramjit Singh @ Laddu was calling him at his Haveli.

On this, the appellant went to the Haveli of Paramjit Singh @

Laddu and saw that Thakur Dass, Sarpanch, Sartaj Pal Singh and Kamaljit Singh @ Kamal were present there. On seeing the appellant, Thakur Dass raised a *lalkara* to catch hold of him and not to allow him to escape Kamaljit Singh @ Kamal caught hold of the appellant, whereas Sartaj Pal Singh gave a chhura blow on his right shoulder, Paramjit Singh @ Laddu gave two blows with Khukhri, hitting him on his left leg. As a result, the appellant fell on the ground. While he lay fallen, Sartaj Pal Singh and Paramjit Singh @ Laddu gave more injuries to him on his right shoulder, left side of chest and little finger of right hand. The alarm raised by the appellant attracted his father to the spot. All the accused, thereafter, fled away while carrying their respective weapons.

During the investigation of the case, the police found Thakur Dass, Kamaljit Singh @ Kamal and Sartaj Pal Singh as innocent. The challan was presented only against Paramjit Singh @ Laddu. Subsequently, Thakur Dass, Sartaj Pal Singh and Kamaljit Singh @ Kamal were summoned to face trial as accused.

After going through the evidence brought on the record and hearing learned counsel for the parties, the trial Court believed the prosecution case only qua the participation

of Paramjit Singh @ Laddu and Sartaj Pal Singh. Both of them were, accordingly, convicted and sentenced for the offences under Sections 307/324/34 IPC. However, the participation of Thakur Dass and Kamaljit Singh @ Kamal was not found to have been established and, accordingly, they were acquitted of the charges against them. Hence, the present appeal by the appellant against their acquittal.

Having heard learned counsel for the appellant, this Court finds that as per the prosecution, Thakur Dass had raised a *lalkara* at the time of the occurrence, whereas Kamaljit Singh @ Kamal had caught hold of appellant Kuldeep Singh. If Thakur Dass was to share common intention with Paramjit Singh @ Laddu and Sartaj Pal Singh, he would have done some overt act and not just raised a *lalkara*. As regards Kamaljit Singh @ Kamal, though PW4 Kuldeep Singh stated that the said accused had caught hold of him yet PW5 Jarnail Singh, father of the appellant and also projected as an eye witness of the occurrence, remained silent about the participation of Kamaljit Singh @ Kamal in the entire occurrence. Moreover, during the investigation of the case, both Thakur Dass and Kamaljit Singh @ Kamal were found innocent and, later on, they were summoned as additional accused to face trial.

In view of the above, no fault can be found with the impugned judgment passed by the trial Court to the extent of acquitting Thakur Dass and Kamaljit Singh @ Kamal accused of the charges against them.

The appeal is without any merit and, therefore, dismissed.

(T.P.S. MANN)
JUDGE

February 12, 2015
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(SHEKHER DHAWAN)
JUDGE