

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. D-189-DB of 2015 (O&M)

Date of Decision : September 22, 2015

Amarjit Singh

.....Appellant

VERSUS

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE T.P.S. MANN
HON'BLE MR.JUSTICE GURMIT RAM

Present : Mr. Rahul Rampal, Advocate.

T.P.S. MANN, J.

Appellant-Amarjit Singh, who had received injuries in the occurrence in question and, thus, a 'victim' as defined under Section 2 (wa) of the Code of Criminal Procedure, has filed the present appeal for challenging the judgment dated September 25, 2014 passed by the learned Additional Sessions Judge, Ludhiana whereby respondent No.2-Balwinder Singh @ Billa stands acquitted of the charges under Sections 307 and 325 IPC.

The case of the prosecution, in nutshell, is that on 14.10.2010 at about 8.30 p.m. when the appellant was standing in front of the main gate of the house of his maternal uncle Jagdev Singh, respondent-Balwinder Singh @ Billa came in a car and after parking the car inside his house started hurling abuses at the appellant. The appellant asked respondent-Balwinder Singh @ Billa to refrain from doing so. However,

Balwinder Singh @ Billa pulled the appellant inside his house, which resulted into a scuffle. The appellant fell down and was given kick blows on his face by Balwinder Singh @ Billa. As a result, the appellant suffered injuries on his nose and his tooth was also dislocated. Damage was also caused to his other teeth. While he lay fallen, he was caused more injuries with a weapon resembling a kirpan, which had sharp edges. The appellant received injuries on his forehead. When the appellant tried to run away from the spot, he was caused more injuries. In case he had not run away from the house of Balwinder Singh @ Billa, the appellant would have been killed. The appellant became unconscious and fell down on the ground. Thereafter, he did not know as to who took care of him. When he regained consciousness, he found himself admitted in the Dayanand Medical College and Hospital. Statement of the appellant was, thereafter, recorded by ASI Jagroop Singh and on its basis, DDR No.27 dated 17.10.2010 was recorded as FIR No. 233 dated 15.10.2010 which already stood registered at the instance of respondent-Balwinder Singh @ Billa regarding the same incident. After receiving the report from the medical authorities regarding the injuries of the appellant, offence under Section 307 IPC was added alongwith offence under Section 325 IPC. On completion of the investigation, final report under Section 173 Cr.P.C. was submitted against respondent-Balwinder Singh @ Billa.

After hearing learned counsel for the appellant and on going through the impugned judgment of acquittal, this Court finds that in regard to the ocular account of the occurrence, the prosecution relied

upon the testimony of the appellant alone who stepped into the witness-box as PW1. The doctor, who had medico-legally examined him, did not step into the witness-box at the trial of the case. PW3 ASI Jagroop Singh, who was the investigating officer in the case, admitted in his cross-examination that FIR No. 233 dated 15.10.2010 already stood registered at the instance of respondent-Balwinder Singh @ Billa and the version of the appellant was by way of cross-version. The version of the appellant had seen the light of the day on the third day of the incident. The delay has not been explained by the prosecution.

It may be worthwhile to mention here that alongwith the appeal the appellant has filed miscellaneous application under Section 391 read with Section 482 Cr.P.C. for summoning of the Record Keeper of the Dayanand Medical College and Hospital, alongwith his medical record. It has been pleaded therein that as the case was tried at the instance of the State, no attempt was made by the prosecution to summon the relevant record from the concerned hospital regarding the injuries suffered by the appellant. Therefore, the appellant may be permitted to lead additional evidence by way of summoning the Record Keeper alongwith the record pertaining to the appellant. However, it may be noticed that at the trial of the case the appellant, being complainant, was duly represented by his counsel. If the State had not made an attempt to summon the medical record, the complainant at that stage could have filed an application for bringing on record the necessary medical record. Even otherwise, the appellant has not specified as to who had medico-legally examined him

and what was the record prepared in that regard. Under these circumstances, no case is made out for permitting the appellant to lead additional evidence. The application filed in that regard is, accordingly, dismissed.

As an upshot of the above discussion, no case is made out for any interference in the impugned judgment of acquittal.

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

**(T.P.S. MANN)
JUDGE**

**(GURMIT RAM)
JUDGE**

September 22, 2015
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