

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-480-DB of 2015 (O&M)
Date of Decision: 14.09.2015

Gurpreet Singh

.....Appellant

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE HARI PAL VERMA**

Present: Shri Inderjit Sharma, Advocate, for the appellant.

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?

Hemant Gupta, J.

The present appeal is directed against an order passed by the learned trial Court on 18.12.2014, whereby respondent Nos. 2 and 3, namely, Seera Singh alias Jagsir Singh and Tar Singh alias Avtar Singh, have been acquitted of offences under Sections 302, 326, 324, 323, 148 and 149 of the IPC, granting them benefit of doubt.

The prosecution case was initiated on the basis of the statement of Gurpreet Singh made to ASI Bharpur Singh on 12.09.2001. It was stated that on 11.09.2011 at about 7.30 p.m., the electric bulb of the main gate in the street was on and then Ram Singh armed with gandasa, Jagtar Singh armed with dang, Amrik Singh armed with dang, Seera Singh armed with dang, Leela Singh armed with takua and Tar Singh empty handed came in front of their house in the street. Tar Singh raised lalkara to send Gurpreet

Singh outside the house as they had to teach him a lesson for having illicit relation with Mohinder Kaur wife of Ram Singh. Gurpreet Singh along with his father Bogha Singh, brother Gurjiwan Singh, uncle Tara Singh came in the street and then Ram Singh gave a gandas blow from its sharp side with the intention to kill, which hit on the hand of his father. His father fell down on the ground and then Leela Singh gave a takua blow to him which hit on his right elbow. Jagtar Singh gave a dang blow which hit above his right ankle. When his uncle Tara Singh came forward to save them, Seera Singh instigated Amrik Singh not to spare Tara Singh. Seera Singh gave a dang blow on the backside of the head of Tara Singh. At this stage upon raising of a noise, all the accused ran away from the place of occurrence. Subsequently, Bhoga Singh father of Gurpreet Singh died on 2.12.2011 and offence under Section 302 IPC was added.

The prosecution in support of its case examined Gurpreet Singh as PW1, Dr. Kamaldeep Kumar as PW-2, Tara Singh as PW-3, Bhaghel Singh as PW4, besides examining other formal witnesses.

The learned trial Court, while considering Point No.(vi), found that no active role has been attributed to Tar Singh as he was allegedly empty handed. The Court noticed that the statement of Gurpreet Singh is discrepant as he has changed his statement. Seera Singh was allegedly armed with a dang, but no injury is attributed to him. The prosecution failed to prove the presence and participation of Tar Singh alias Avtar Singh and Seera Singh beyond reasonable doubt. With the said finding, the learned trial Court acquitted Tar Singh alias Avtar Singh and Seera Singh.

Learned counsel for the appellant contended that Seera Singh and Tar Singh, were part of an unlawful assembly and therefore, even if they were empty handed and no active role is attributed to them, but mere fact that they were part of the unlawful

assembly, is sufficient to constitute offence under Section 302 IPC against them.

We have heard learned counsel for the appellant and find no merit in the argument raised. The learned trial Court has rightly found that no active role is attributed to Seera Singh and Tar Singh. Tar Singh was stated to be empty handed, whereas Seera Singh, though stated to be armed with a dang yet was attributed no injury. The tendency to rope in as many as people as are available to settle scores is not uncommon. Since no active role is attributed nor proved, therefore, we do not find any illegality or perversity in the finding of the learned trial Court, giving benefit of doubt to the respondents, which may warrant interference by this Court in the present appeal against acquittal.

Hence, the present appeal is dismissed.

(Hemant Gupta)
Judge

(Hari Pal Verma)
Judge

14.09.2015
Yag dutt/ds