

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

Crl. Appeal-D No. 833-DB of 2015(O&M)

Date of Decision: July 20 , 2015.

Bhupinder Singh

..... APPELLANT (s)

Versus

State of Punjab and others

..... RESPONDENT (s)

**CORAM:- HON'BLE MR.JUSTICE HEMANT GUPTA
HON'BLE MRS.JUSTICE LISA GILL**

Present: Mr. ADS Sukhija, Advocate
for the appellant.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reports or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Bhupinder Singh son of Ranjit Singh, who is complainant and injured in FIR No.68 dated 16.05.2011 has preferred the instant appeal impugning the judgment dated 05.02.2015 passed by learned Additional Sessions Judge, Fatehgarh Sahib to the extent of acquittal of respondents No.2 to 4, namely, Hardeep Singh, Darshan Singh and Jatinder Singh of the charges for offences punishable under Sections 307/323/325/341/ 427/506/34 IPC.

The abovesaid FIR was registered on the basis of statement Ex.PA of complainant Bhupinder Singh, who revealed that he alongwith Sohan Singh, Gurdeep Singh and Gurbaz Singh have jointly purchased land measuring two

acres situated in village Kotla Bajwara in December 2010. They have taken possession of the said land and got the same demarcated from the Kanungo. It was found that a rough passage leading from Sirhind-Chunni road to their land was falling in their land. They had affixed identification marks (Burjis).

Complainant alongwith Mohan Singh son of Surjit Singh were travelling to village Kotla Bajwara in Mohan Singh's car on 15.05.2011 at about 7.30 p.m. When they reached near the rough passage of their land, accused Harjinder Singh already known to the complainant, alongwith 8/9 unidentified persons besieged their car. Harjinder Singh who was armed with a Gandasi exhorted that the complainant and Mohan Singh be taught a lesson for affixing the identification marks (Burjis). Complainant and Mohan Singh were attacked by all the accused persons. Accused Harjinder Singh rendered a Gandasi blow on Mohan Singh's head, who immediately fell down on the ground and became unconscious. Harjinder Singh thereafter inflicted another Gandasi blow from its reverse side on complainant's head.

The unidentified persons caused injuries on fingers and right wrist and also caused head injuries on the person of Mohan Singh, who had fallen. They also caused injuries to the complainant specifically on his neck, right ribs, right elbow and wrist. Accused Harjinder Singh snatched a Webley revolver of .450 bore from the complainant and threatened to kill him. He also uprooted the identification marks affixed on the ground. On raising hue and cry by the complainant, the accused fled from the spot alongwith their respective weapons and revolver of the complainant in a Mahindra Pickup and they left one Innova vehicle at the spot. Medical aid was given to the complainant and Mohan

Singh.

During investigation, Hardeep Singh, Darshan Singh and Jatinder Singh i.e., respondents No.2, 3 and 4 were found innocent and placed in Column No.2 of the report prepared under Section 173 Cr.P.C. Report/challan was presented only against Harjinder Singh and Gursewak Singh. Respondents No.2 to 4 were summoned under Section 319 Cr.P.C. to face trial. As many as 17 witnesses were examined by the prosecution to prove its case.

Learned trial court on appreciating the evidence on record found that the prosecution had proved its case beyond reasonable doubt against accused Harjinder Singh and Gursewak Singh for the offences punishable under Sections 307/323/325/341/427/506/34 IPC. Both Harjinder Singh and Gursewak Singh were sentenced to undergo rigorous imprisonment of varying periods under different Sections maximum being ten years for offence punishable under Section 307 IPC, besides, pay a fine of ₹10,000/-. Trial court acquitted respondent No.2 – Hardeep Singh, respondent No.3 – Darshan Singh and respondent No.4 – Jatinder Singh as the prosecution has failed to prove its case beyond reasonable doubt against them. Aggrieved from the acquittal of the abovesaid three accused, present appeal has been preferred by the complainant.

Learned counsel for appellant-complainant submits that specific injuries which were dangerous to life, have been proved on record. Trial court has believed the prosecution version qua two of the accused and sentenced them accordingly. There is no justification to acquit respondents No.2, 3 and 4 in the present case. Trial court has grossly erred in acquitting the said respondents in the light of specific evidence on record. PW1 Bhupinder Singh has specifically named the said respondents though, admittedly at a later stage in his

supplementary statement. It is also argued that cross-version set up by the accused party was not found trustworthy and the persons of complainant-party have been acquitted therein. It is, thus, prayed that respondents No.2 to 4 should also be convicted for the offences as charged and sentenced accordingly.

We have heard learned counsel for the appellant and on going through the file find no infirmity or illegality in the impugned judgment dated 05.02.2015 qua acquittal of the abovesaid respondents which warrants any interference by this Court.

Learned counsel for the appellant is unable to deny that the said respondents were not named at the very outset by the complainant Bhupinder Singh when he got his statement recorded. He has only named Harjinder Singh, other persons accompanying him are stated to be unidentified persons. However, complainant Bhupinder Singh PW1 has specifically admitted that he knew the abovesaid three persons prior to the occurrence. They were not strangers to him.

Keeping in view this material and vital aspect it is not probable that complainant would not have named the said persons at the very outset when the FIR was registered in case they were actually been present at the place of occurrence. There was no question of their names not having been mentioned in the statement Ex.PA. in the said eventuality. It is not denied that all the three respondents had been found to be innocent during investigation though they had been summoned on an application under Section 319 Cr.P.C. There is no evidence on record to connect or link the said respondents with the offence in question. Their presence at the time of occurrence is not proved on record.

No doubt injuries have been caused to complainant Bhupinder

Singh and Mohan Singh however, to hold that the said injuries have also been caused or inflicted by respondents No.2 to 4 is not justified in the facts and circumstances of the present case. Trial court on appreciation of the evidence has convicted accused Harjinder Singh and Gursewak Singh for the offences as charged and sentenced them to maximum imprisonment i.e., for ten years for the offence punishable under Section 307 IPC.

It is a settled position that strong, compelling or substantial reasons have to be pointed out for setting an order of acquittal. Learned counsel for appellant is unable to point out any ground to justify interference in the impugned judgment dated 05.02.2015 passed by learned Additional Sessions Judge, Fatehgarh Sahib qua acquittal of respondents No.2 to 4.

Consequently, this appeal is dismissed.

(HEMANT GUPTA)
JUDGE

(LISA GILL)
JUDGE

July 20 , 2015.
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