

In the High Court of Punjab and Haryana at Chandigarh

CRR-3895-2015 (O&M)

Date of decision:08.12.2015

Ranjit Singh and another

..... Petitioners

Vs.

The State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

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?

Argued by: Mr. Dilpreet Singh Gandhi, Advocate
for the petitioners.

RAJ RAHUL GARG.J.

This is a revision petition under Section 53 of Juvenile Justice (Care and Protection of Children) Act 2000 (hereinafter to be called as Juvenile Justice Act) against the judgment dated 09.09.2015, whereby, the appellants-accused (both juvenile), while deciding their appeal under Section 52 of the Juvenile Justice Act against the judgment dated 20.09.2012 rendered by learned Principal Magistrate Juvenile Justice Board, Amritsar, were held guilty for the offence under Section 302/148 of IPC and under Section 25/54/59 of Arms Act. Vide order of sentence dated 20.09.2012, both the juveniles were ordered to sent to Special Home for a period of 3 years each, under Section 15 (1) (g) of Juvenile Justice Act.

Facts giving rise to this revision petition are as under; that

Gagandeep Singh stated before the police on 06.12.2004, that he along with

Goldy and some other boys were playing cricket at Elementary School, Faijpura. At about 5:00 P.M., Girdhari and Mithu came there and they started manhandling Goldy. Girdhari called out others loudly with his face towards Abadi-side stating that they had already surrounded Goldy and Gagandeep Singh and further that they should come. At this, Darshan Singh, Kaka, Beero, Manna and Raju, who were present in the house of Manna (which is opposite the place of occurrence) armed with *kripans*, *knives* and *chhuras*, came there, raising lalkaras. Complainant and his brother Goldy had tried to run away, however, Mithu and Girdhari caught hold of them and the remaining aforementioned accused with an intention to kill both of them started giving blows with their respective weapons to them. In the meanwhile, Beero handed over *chhuras* to her husband Darshan Singh and son Girdhari telling them to take their lives so as to finish the daily quarrel (*roz roz ke jhagde ko khatam karo*) amongst them. On hearing shouts, complainant's father Kashmir Singh and one Manohar Singh reached the spot. On seeing them, the aforementioned accused had run away from the spot alongwith their respective weapons. Goldy, as well complainant were taken to hospital where Goldy had died. As per complainant, he had received serious injuries. Complainant further gave the motive like this; that about 1-½ months ago, the aforementioned accused had given beatings to Goldy to a great extent. As a result, they had to apologize. On account of this fact, the accused were nursing a grudge. Consequently, they committed this crime. On the basis of this statement of Gagandeep Singh, this case was registered. Investigations were conducted. Accused were apprehended. As accused Ranjit Singh and Raju were juveniles, therefore, on completion of

investigations, their challan were put up before the Juvenile Justice Board for trial. Both the appellants-accused were charge-sheeted for committing offence punishable under Section 302/148 IPC and under Section 25-54-59 of the Arms Act.

After taking entire prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded wherein by way of defence they pleaded their false implication.

After hearing both the sides and appraising the entire material and evidence on record, the Juvenile Justice Board, held both the appellants-accused guilty of offence under Section 302/148 IPC and under Section 25/54/59 of Arms Act. Juveniles were ordered to sent to Special home for a period of 3 years each under Section 15 (1) (g) of Juvenile Justice Act. This judgment is dated 20.09.2012. Against this judgment, appellants-accused filed an appeal before the Court of learned Additional Sessions Judge, Amritsar under Section 52 of the Juvenile Justice Act. In this appeal, the learned Additional Sessions Judge, Amritsar, affirmed the findings of the learned Juvenile Justice Board and did not interfere with the impugned judgment.

Under the afore-discussed circumstances, the appellants-accused have come up in this Court by way of above mentioned revision petition.

We have heard learned counsel for the appellants besides going through the record of this case.

First of all, it was argued by learned counsel for the appellants-accused that only on the basis of statement of Gagandeep Singh, conviction

has been recorded. Gagandeep Singh is the interested witness. His statement remains uncorroborated. Only on the uncorroborated statement of Gagandeep Singh, it is not safe to base conviction. Sukhwinder Singh, Investigating Officer of this case has not been examined. He being material witness, if examined, would have revealed as to who were the witnesses of this case and further about the genuineness of the prosecution case.

The above argument of learned counsel for the appellants-accused is devoid of any force as this case is based upon eye witness account. Gagandeep Singh (PW1) is the complainant of this case. He also received serious injuries. Dr. Navpreet Kaur (PW3) medico-legally examined Gagandeep Singh and proved his MLR as Ex.PW3/1. He received an incised wound on the left side of his chest. This injury was reported as the one given by sharp-edged weapon by the doctor. Thus, with this evidence on the file, presence of Gagandeep Singh at the spot is not doubtful. In fact, he has witnessed the whole occurrence. On his statement, this case was registered. He has categorically stated that Girdhari and co-accused Mithu caught hold of him as well Goldy whereas the remaining accused gave blows on their person with their respective weapons. He further deposed that Beero handed over *chhura* to Darshan Singh and Girdhari asking them to kill Gagandeep and Goldy so as to end dispute forever. Girdhari gave *chhura* blow to him while Mithu gave another *chhura* blow to Goldy on his right back side. Prem Singh @ Kaka gave *chhura* blow on the back left side of Goldy who became unconscious and fell down. Thereafter, juvenile Raju gave *chhura* blow on the right leg of Godly while he was lying on the ground. Gagandeep Singh was cross-

examined at length but nothing material could be extracted from him. As such, he being stamped witness, his testimony cannot be discarded merely for the reason that he is a relation witness or that it is not corroborated one.

Under these circumstances, it becomes the duty of the Court to closely analyse the statement of Gagandeep Singh. In case, the Court finds that it is consistent and duly corroborated by medical evidence, it is not possible to discard the same on the ground that he is an interested witness. A witness, merely because he is a relation witness, cannot be said to be an interested witness unless it is proved on the file that he was to derive some benefits out of the success of this case. There is no material on the file to prove the same. Since, there is nothing on the file to show that the statement of this witness is unreliable and further to doubt the presence of this witness, therefore, we find no illegality in the findings of conviction of appellants-accused on the basis of statement of Gagandeep Singh complainant which is duly corroborated by the medical evidence on record. In case, Investigating Officer of this case has not been examined by the prosecution, it cannot be said to be fatal for the prosecution. Investigating Officer was simply to depose about the conduct of investigations of this case. The witness of occurrence is Gagandeep Singh, who appeared as PW1.

The next contention of learned counsel for the appellants-accused is this; that Rishi Ram, Draftsman, has not been examined as witness; MHC Gurminder Singh with whom case property was deposited has also not been examined as witness. Even the witnesses of identification of dead body have not been examined. HC Bikram Singh and HC Gurmej Singh, in whose presence post mortem was conducted, have also not been

examined. As such, the prosecution case cannot be said to be free from doubt and benefit of which has to go to the accused.

The above contention of learned counsel for the appellants-accused is devoid of any merit as non-examination of draftsman or MHC of the Police Station or the witnesses of identification of dead body or the witnesses in whose presence post mortem of the dead body was conducted; did not affect the merits of the case.

Dr. Gurmanjit Rai conducted the post mortem examination of dead body of Goldy. He appeared as PW2. This witness proves the post mortem report of Goldy Ex. PW2/A. He gave the cause of death as hemorrhage and shock as a result of injuries No.1 and 2 which were sufficient to cause death in the ordinary course of nature. Gagandeep Singh (PW1) has categorically stated that Goldy is his brother. Accused have inflicted injuries on his person. He was taken to the hospital. As a result of injuries, he had died. No-body ever disputed the identity of Goldy. As such, if HC Bikram Singh and Gurmej Singh have not been examined as witnesses, it hardly makes any difference. In the presence of above-discussed evidence on the file i.e. the statements of Gagandeep Singh (PW1), Dr. Gurmanjit Rai (PW2) and Dr. Navpreet Kaur (PW3), which are consistent, even non-production of weapon of offence and blood stained clothes of the deceased in the Court, are not fatal to the prosecution case.

The next argument of learned counsel for the appellants-accused is that Kashmir Singh and Manohar Singh, eye witnesses have not been examined as witnesses which creates doubt in the prosecution case.

This argument is again not sustainable as it is settled proposition of law that

conviction can well be based on the testimony of sole eye witness if it inspires confidence in the mind of the Court regarding guilt of the accused and when the statement of single eye witness is corroborated by the medical evidence.

In the case in hand, Gagandeep Singh (PW1) is the eye witness. He suffered injuries at the hands of appellants-accused and others in the same occurrence in which his brother Godly had died. Thus, we do not find any illegality, impropriety or irregularity in the impugned judgment so as to warrant interference of this Court on revisional side.

For the reasons recorded above, finding no merit in this revision petition, it is ordered to be dismissed.

(HEMANT GUPTA)
JUDGE

(RAJ RAHUL GARG)
JUDGE

08.12.2015
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