

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

**Criminal Appeal D-1386-DB of 2015
Date of Decision: January 28, 2016**

Narinder Singh	Versus	Appellant
State of Punjab and others		 Respondents

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present : Mr. D.K.Bhatti, Advocate
for the appellant.

T.P.S.MANN, J.

Appellant Narinder 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 27.1.2012 passed by learned Sessions Judge, Jalandhar, whereby respondents No. 2 to 8 stand acquitted of the charges under Sections 148, 307, 333, 332, 353, 186, 427 and 149 IPC.

In brief, the prosecution case is that on 8.7.2008, the appellant, who was serving in Punjab Home Guard as Havaldar and posted in Police Station Phillaur was going from his house to attend his duty on a motor-cycle. He was wearing the uniform. When he reached a little ahead of the turn of brick kiln, he saw

three motor-cycles parked on the road. There was no person near those motor-cycles. After slowing down his motor-cycle, the appellant looked around. Four persons carrying Datars, Kirpans and Gandasa came out from the Bajra crop on the left side of the metalled road while two persons armed with Dangs came out from behind the Bhang on the right side of the road. All of them, raised Lalkara and with an intention to kill him, the persons armed with Dangs opened an attack and caused blows on the backside of his head. The assailants armed with Kirpans gave blows on the front side of his head. Persons armed with Gandasas gave blow on the right leg below the knee whereas another person armed with Kirpan gave two blows, one on the right shoulder and other on the left leg below the knee. The appellant after throwing his motor-cycle started ran towards the Bajra crop. He was chased by the assailants. When he crossed the road and entered the paddy field on the right side of the road, he fell down in the water. The persons armed with Datar tried to assault him. The appellant raised his right hand to ward of the blow and as a result of which his right hand was cut. Two of the assailants were saying that his legs be chopped of whereas one who was armed with Datar tried to attack the appellant with force. To save himself, he put forward his left foot and the Datar hit on the little toe of his left foot. Two boys armed with Kirpans gave a blow each which hit on his

shoulder and left arm near the wrist. Another blow was given by the person holding a Gandasa and when the appellant tried to stand, the blow hit him on his buttock. Head Constable Chhinder Pal raised an alarm. On hearing the same passers by gathered there and the assailants ran away from the spot while carrying their respective weapons. While leaving the place, the assailants also snatched Rs.11,000/- and mobile of the appellant whereas the passport of his wife got damaged in the water. According to the appellant, he could identify the assailants if produced before him.

Further case of the prosecution is that on the basis of statement made by appellant Narinder Singh before ASI Harbhajan Singh, FIR No. 136 dated 9.7.2008 under Sections 307, 326, 324, 323, 382, 353, 332, 186, 427, 149, 148 and 120-B IPC was registered at Police Station Phillaur, District Jalandhar.

Having heard learned counsel for the appellant and on going through the impugned judgment of acquittal passed by the trial Court, it is made out that the appellant did not know as to who his assailants were. For that reason, he described them to be unknown persons who had come out from the fields adjoining the road and opened an attack upon him. As a result, the appellant had received numerous injuries. Even at the trial of the case, the appellant while deposing as PW8 did not name the

assailants. He tried to fix their identity by pointing at them. PW9 Head Constable Chhinder Pal, who claimed himself to be an eye witness of the occurrence deposed that the assailants had caused injuries to Narinder Singh but he could not identify as to who had caused injuries during the occurrence to Narinder Singh.

In order to fix the identity of the assailants, the prosecution relied upon the testimony of PW15 Pirthi Pal Singh who deposed that on 14.9.2008 all the accused had come to him. Out of them, he knew accused Gurmukh Singh. All of them pleaded before him that they had caused injuries to Narinder Singh and, therefore, they be produced before the police. However, in his cross-examination PW15 Pirthi Pal Singh admitted that he did not know what the father of Gurmukh Singh was doing, who were his family members and where they were residing. He also admitted that he never visited the house of Gurmukh Singh nor attended any family function of Gurmukh Singh and others. He also did not invite them to any of his family function. He also could not remember whether he had produced any person earlier before the police or even subsequent to the present case. He also admitted that he did not disclose to his wife or to any other respectables of the village that the accused had come to him for being produced before the police. He also did not inform anybody in the village regarding coming of the accused to

him. He further stated that though he owned a mobile yet he did not inform the police on the mobile that the accused had come to him. From the deposition of PW15 Pirthi Pal Singh, it is made out that what to talk of others, he did not know Gurmukh Singh earlier whom he claimed to be known to him. Even otherwise, extra judicial confession is a weak type of evidence. Therefore, it becomes doubtful that the accused would have approached PW15 Pirthi Pal Singh who was Ex-Panch of the village and his wife was the Sarpanch at that time and the accused had approached him and confessed their guilt before him.

In view of the above, 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**

January 28, 2016
amit rana

**(RAMENDRA JAIN)
JUDGE**