

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

Criminal Revision 2077 of 2004

Date of Decision: July 13, 2016

Sucha Singh		Petitioner
	Versus	
State of Punjab and others		 Respondents

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

Present : Mr. S.K.Arora, Advocate
for the petitioner.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab
for respondent No.1-State.

None for respondents No. 2 to 5.

T.P.S.MANN, J. (Oral)

Complainant-Sucha Singh has filed the present revision under Section 401 Cr.P.C. for challenging the judgment dated 20.5.2004 passed by the Additional Sessions Judge, Fast Track Court, Ferozepur, whereby, respondents No. 2 to 5 stood acquitted of the charges under Sections 307/323/34 IPC.

The case of the prosecution, in nutshell, is that on 22.9.2003 at about 9.00 p.m., complainant-Sucha Singh, who was resident of village Megha Panj Garain Hithar was returning home

on his scooter from village Chuge Larian. When he reached in front of the house of Makhan Singh, an electric bulb outside that house was emitting light. Accused Makhan Singh while being empty handed, his wife Sheelo armed with sota and sons Balwinder Singh and Pritam Singh armed with gandasi and dang respectively were standing outside their house. They signalled him to stop his scooter. When he stopped his scooter Makhan Singh raised a lalkara that he be not allowed to go scot free. Balwinder Singh gave a gandasi blow on the right side of his forehead and he started bleeding. Pritam Singh gave a dang blow on the right side of his head whereas Sheelo gave sota blow on his right arm. Sucha Singh raised an alarm, which attracted his co-villagers Chiman Singh and Teja Singh to the spot who also saw the occurrence. Both of them rescued the complainant from the clutches of the accused. Later on, the complainant was shifted to Civil Hospital, Ferozepur, where he was medico-legally examined. The motive behind the occurrence was the dispute going on between the parties regarding the land.

Further case of the prosecution is that on 24.9.2003 ASI Tilak Raj went to Civil Hospital, Ferozepur and after obtaining certificate regarding fitness of injured Sucha Singh, recorded his statement Ex.P1. On its basis, FIR Ex.P3 was registered at Police

Station Guruharsahai under Sections 324/323/34 IPC. During the investigation of the case, ASI Tilak Raj after going to the place of occurrence prepared rough site plan, arrested the accused and recovered the weapons of offence. After injury No.1 was declared as dangerous to life, offence under Section 324 IPC was enhanced to Section 307 IPC. Upon completion of the investigation and presentation of challan followed by commitment of the case, the trial Court charged respondents No.2 to 5 for the aforementioned offences, to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined Sucha Singh injured as PW5 and Teja Singh as PW7. Both of them deposed about the ocular account of the occurrence. PW3 Dr. Jajbir Singh Sandhu testified that on 23.9.2003, he medico-legally examined injured Sucha Singh and noticed the following injuries on his person:-

- “1. Incised wound 4 cm x 0.75 cm on the right fronto parietal region just behind the anterior hair line. Fresh bleeding was present. X ray was advised.
2. Patient complained of pain on right arm and right leg.”

PW1 Dr. Pritam Singh Seona, testified that on

25.9.2003, on the basis of clinical examination, X-ray and CT Scan reports, he opined that there was fracture of squamous temporal bone and a haemorrhagic contusion in the right temporal region and, accordingly, injury No.1 on the person of Sucha Singh was dangerous to life.

PW2 Dr. Vikas Arora, testified that on 23.9.2003, he conducted CT Scan examination regarding injury No. 1 and found that there was fracture of right squamous temporal bone. The haemorrhagic contusion was seen in the right temporal region. No overt mass effect was seen. There was no epidural/subdural haematoma. Rest of the brain appeared normal.

PW4 Dr. Hardit Jyoti, Radiologist, deposed that on 24.9.2003, he conducted X-ray examination regarding injury No.1 on the person of Sucha Singh but no obvious bony injury was found on the skull. He deposed that CT Scan for confirmation of bony injury was advised and after receiving report of CT Scan, he found fracture of temporal bone on the right side of the skull.

PW6 ASI Tilak Raj, the Investigating Officer had brought on record the investigation part of the case.

When examined under Section 313 Cr.P.C., the accused/respondents denied the incriminating circumstances appearing against them and claimed their false implication.

Respondent No.2-Balwinder Singh also stated that the doctor and police officials had deposed falsely against him and his co-accused. They had played into the hands of complainant-Sucha Singh. Teja Singh was maternal uncle of Sucha Singh. Sucha Singh was having a land dispute with them regarding which his father obtained stay order from the Civil Court on 6.9.2003 by filing a civil suit. The land in dispute was in possession of his father. Sucha Singh and others wanted to take forcible possession of the same and due to that grudge, they falsely implicated him and his co-accused by causing injuries to him on 22.9.2003 at about 10.00 p.m. by entering into his house.

In their defence, the accused examined DW1 Constable Jeet Singh, who proved the copy of FIR Ex.D1 dated 7.7.2002 under Sections 436/477 IPC registered at the instance of accused Sheela. DW2 Ravinder Kumar, Ahlmed, proved copy of complaint Ex.P2 given by accused Sheela. The accused also tendered in evidence copy of stay order Ex.D3 dated 6.9.2003.

After hearing learned counsel for the parties and on going through the record, the trial Court came to the conclusion that prosecution had miserably failed to prove the guilt of any of the accused and, accordingly, by giving benefit of doubt to them acquitted them of the charges.

Learned counsel for the parties have been heard and the evidence brought on the record perused with their able assistance.

The occurrence in question had taken place on 22.9.2003 at about 9.00 p.m. whereas it was on 24.9.2003 that statement of complainant Sucha Singh was recorded by ASI Tilak Raj at 6.15 p.m., on the basis of which, the FIR was registered. The delay in lodging of the FIR has been tried to be explained by the prosecution that on 23.9.2003 Head Constable Ramesh Kumar went to Civil Hospital, Ferozepur to record the statement of complainant but he was declared unfit to make statement by the attending doctor. It may be that the complainant was not fit to make a statement on 23.9.2003 but PW7 Teja Singh, who had witnessed the occurrence could have approached the police and lodged the report against the accused, more so, when he was shown to be inimical towards the accused and had an opportunity to get a case registered against them. He also deposed that he did not disclose about the occurrence to the Numbardar, Sarpanch or any other villager. His presence at the time of the occurrence is also doubtful as he took no steps to rescue complainant-Sucha Singh. Had he taken any steps in that direction, he ought to have been attacked by the accused. His

being not assaulted by the accused points to the fact that he was not present at the time of the occurrence.

After complainant-Sucha Singh was medico-legally examined by PW3 Dr. Jajbir Singh Sandhu, nature of injury No. 1 was kept under observation subject to X-ray examination. PW4 Dr. Hardit Jyoti, testified that on 24.9.2003, he conducted radiological examination but no obvious bony injury was seen and, accordingly, he had advised CT Scan. The CT Scan was to be conducted on 24.9.2003 or thereafter. However, CT Scan on the basis of which, injury No. 1 was declared to be dangerous to life, was shown to be conducted on 23.9.2003. Thus, there was no question of PW4 Dr. Hardit Jyoti recommending CT Scan for further confirmation of the bony injury. In his cross-examination, he admitted that he conducted X-ray examination of the injury on 23.9.2003 but when confronted with his report Ex.PF, he admitted that the same was of 24.9.2003. He also admitted that there was cutting in the original register, in which, he changed the date 23.9.2003 to 24.9.2003. This clearly shows that reports were manipulated by the doctors in order to help the complainant party by showing injury No. 1 to be serious in nature despite the fact that in the X-ray examination no fracture was seen at the seat of injury No. 1.

As regards the land dispute between the parties, Makhan Singh accused had already obtained an interim injunction order on 6.9.2003 in the suit filed by him against complainant-Sucha Singh and PW7 Teja Singh. Once the accused party had taken recourse to the legal remedy and obtained interim injunction order, there was no need for them to launch an assault upon the complainant. At the same time, it may be noticed that it was accused Balwinder Singh, who was attacked by complainant Sucha Singh and his brother Pritam Singh. During his medico-legal examination, two incised injuries were found, one on the left side of his head while the other on the right side. The duration of injuries received by accused Balwinder Singh was same as of the injuries noticed on the person of complainant-Sucha Singh. It cannot be said that the injuries on the person of accused Balwinder Singh were self suffered or received from a friendly hand. In such a situation, the prosecution was under a duty to explain the injuries on the accused. Surprisingly, while lodging the FIR, complainant-Sucha Singh stated that none of the accused received any injury on their person at the time of the occurrence. Apparently, he wanted to avoid being implicated in a criminal case.

It may be noticed here that when complainant-Sucha

Singh stepped into the witness box as PW5, he refused to take oath and, accordingly, proceedings were initiated against him. Later on, he was convicted and sentenced for committing offence under Section 178 IPC. It may be that either he was fearing to tell lie after taking oath or he wanted to suppress the truth.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal passed by the trial Court qua respondents No. 2 to 5 of the charges against them.

The revision is without any merit and, accordingly, dismissed.

July 13, 2016
amit rana

(T.P.S. MANN)
JUDGE