

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

Crl. Revision 93 of 2003

Date of Decision : January 07, 2016

Sube Singh

.....Petitioner

VERSUS

Bani Singh and others

.....Respondents

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

Present : Mr. Tapan Kumar Yadav, Advocate
for the petitioner.

Mr. Surinder Gandhi, Advocate
for the respondents.

T.P.S. MANN, J.

The respondents, namely, Bani Singh, Jai Singh and Krishna were charged for committing the offences punishable under Sections 323/341/34 IPC. Vide judgment dated 11.6.2002, learned Additional Sessions Judge, Rohtak after holding that the prosecution case against them had become doubtful, extended the benefit to them and, accordingly, acquitted them of the charges against them. Hence, the present revision filed by complainant-Sube Singh wherein he has challenged the acquittal of the accused/respondents of the charges against them.

According to the prosecution, complainant-Sube

Singh is a resident of village Marodhi Rangran and an agriculturist by profession. His brother Lakhi Ram took land measuring 15 acres on lease from Om Parkash, a resident of village Marodhi Rangran by executing lease deed. On 17.6.1997 at about 9.00 a.m., complainant Sube Singh with his brother Lakhi Ram went to the said land for ploughing it with the tractor of Joginder. Joginder started ploughing the land with his tractor. Lakhi Ram went to the shade of a tree and sat down there. He had his licensed gun with him. In the meanwhile, Bani Singh and Jai Singh, sons of Deep Chand, and Krishna wife of Bani Singh armed with *lathi* and *jaili* came there. They declared that they would not allow the tractor to move in the land. They claimed that land to be in their possession. When complainant Sube Singh asserted his right on the land under a lease deed, Bani Singh, Jai Singh and Krishna opened attack on him with *lathi* and *jaili*. Bani Singh gave a *lathi* blow on the head of the complainant, which was received by him on his left hand, which was raised by him to protect his head. Bani Singh gave another *lathi* blow at the back of his head. Krishna gave a *lathi* blow on the right hand of the complainant. The complainant also had a *lathi* in his hand which he used in the exercise of his right of private defence. As a result, Bani Singh and others suffered injuries. Joginder also pelted stones and brick-bats on them. Seeing all this, Lakhi Ram

fired a shot in the air. Bani Singh fell on the harrow in the occurrence and suffered injuries. Hearing the commotion, Satbir and Mir Singh came there. They saw the occurrence and rescued the complainant and others. In the meanwhile, Ram Dhan and others came there. Sube Singh was taken to C.H.C. Kalanaur, where he was medico-legally examined by Dr. Pawan Kumar.

On 18.6.1997, Ishwar Singh ASI was present at Jindran turning in the area of Kalanaur. Case had already been registered at the instance of Bani Singh. Ishwar Singh ASI came to know that injuries had been received by the other party i.e. Sube Singh also. Sube Singh met him there. His statement was recorded and the case was investigated as a cross case. He went to the spot and prepared a rough site plan of the place of occurrence. He made a search for the accused. He recorded statements of the witnesses. He collected the lease papers. Subhash Chand ASI arrested accused Bani Singh, Jai Singh and Krishna on 1.10.1997. On completion of the investigation, Ram Parkash, SI/SHO, prepared the challan against the accused.

Upon completion of investigation, challan was presented against the accused in the Court of the Ilqa Magistrate. The case was, thereafter, committed to the Court of Sessions where the respondents were charged for the

aforementioned offences to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined eight witnesses.

ASI Subhash Chand PW-1 arrested the accused on 1.10.1997 in this case.

Sube Singh PW-2 is the complainant. He is the injured witness of the occurrence.

Joginder PW-3 is an eye witness of the occurrence.

Ram Parkash SI, now Inspector who appeared as PW-4 prepared challan against the accused.

HC Satbir Singh PW-5 remained associated with ASI Ishwar Singh on 21.7.1997 during the investigation.

Another Satbir who is son of Jage Ram appeared as PW-6. He is also a witness of the occurrence.

ASI Ishwar Singh PW-7 is the main Investigating Officer of the case.

Dr. Pawan Kumar PW-8 medico-legally examined Sube Singh.

Some documents were tendered in evidence and the evidence of the prosecution was closed.

When examined under Section 313 Cr.P.C., Bani

Singh accused had denied for want of knowledge the taking of land measuring 15 acres on lease by Lakhi Ram from Om Parkash. Other prosecution evidence put to him was denied by him as untrue. He had pleaded that he was cultivating the land in question as tenant. According to him, khasra No. 77/10 that adjoined drain No. 8 belonged to Shakuntla and Vimal Kumar. He added that there was litigation with them of his brother Raj Singh and the matter between them was pending in Hon'ble High Court. He had stated that on 17.6.1997 at about 11.00 a.m. he, his wife Krishna and his brother Jai Singh as also Raj Singh were working in the said land bearing Khasra No. 77/10. Om Parkash, Chand and Sube came there armed with *lathis* and *jailies* and attacked them. Lakhi Ram, Ram Dhan, Hira and Joginder also arrived at the spot with their guns and they fired at them. Randhir and Hoshiar were said to have reached the spot and rescued them. It is claimed that this case has been got made out against the accused only to avoid criminal liability in the cross case.

Krishna and Jai Singh accused repeated the version of Bani Singh accused.

In defence, the accused examined Samir Kumar, Record Keeper, PGIMS Rohtak as DW1 besides tendering various documents before closing their evidence.

After hearing learned counsel for the parties and on

going through the record, the trial Court acquitted the accused/respondents of the charges against them.

This Court has heard learned counsel for the parties and scanned the evidence with their able assistance.

PW2 Sube Singh had deposed that while Joginder Singh was ploughing the land with his tractor, the three accused came there armed with *lathis* and *jailies*. Bani Singh had given *lathi* blow on the right hand of the complainant, Krishna had given *lathi* blow on the head of the complainant which he warded off with his left hand while Bani Singh accused had also given a *lathi* blow on his head. Jai Singh accused was not attributed causing of any injury though he was armed with a *jaili*. However, PW6 Satbir testified that Jai Singh accused had given a *lathi* blow to Sube Singh on his hand. Further, at one stage he stated that Jai Singh accused was armed with a *lathi* but at another stage he was shown to be armed with a *jaili*. The conflict in the statements of Sube Singh and Satbir Singh with regard to the involvement of Jai Singh accused and the weapon held by him renders the prosecution case qua his involvement as doubtful.

According to PW3 Joginder, the occurrence continued for upto fifteen minutes. If that be so, it was highly improbable that complainant-Sube Singh would have suffered only two injuries. The injury caused by Bani Singh on his right hand is also

not corroborated by the medical evidence. Further, while PW2 Sube Singh did not attribute any role to Jai Singh accused, PW6 Satbir was silent about the participation of Krishna accused.

As regards the injuries on the person of PW2 Sube Singh, injury No.1 was a lacerated wound while injury No.2 was a bruise. Injury No.1 which was a lacerated wound and present on the right side of the scalp, was said to have been caused by Bani Singh accused with a *lathi*. However, PW8 Dr. Pawan Kumar testified that the possibility of the injuries on the head with a brick bat could not be ruled out. He also testified that the injury on the base of thumb could also be sustained if one fell on the ground first touching the ground with hand.

From the testimony of PW12 Dr. Manoj Lamba, it stands mentioned that Bani Singh accused when medico-legally examined on the date of the occurrence had eight injuries on his person, Jai Singh accused had six injuries while Krishna accused had three injuries. These injuries are far greater in number than the injuries noticed on the person of PW2 Sube Singh.

As regards the possession over the land in question, it may be mentioned here that bonafide dispute had been going on between the complainant party and Raj Singh. Though the suit preferred by Raj Singh was dismissed by the trial Court but was decreed in appeal.

In view of the above, no case is made out for any interference in the impugned judgment of acquittal passed by the trial Court.

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

**(T.P.S. MANN)
JUDGE**

**(RAMENDRA JAIN)
JUDGE**

January 07, 2016
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