

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

CRR No.4283 of 2014 (O&M)
Date of Decision: September 01, 2016

Hari Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Namit Gautam, Advocate
for the petitioner.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Hari Singh against respondents State of Punjab, Hardeep Singh, Harjeet Singh, Darshan Singh and Gawarna Singh, challenging the impugned judgment dated 07.11.2014 passed by learned Addl. Sessions Judge, Fazilka, vide which the appeal filed by the accused-respondents was allowed and judgment of conviction and order of sentence dated 04.03.2014 passed by learned Sub Divisional Judicial Magistrate, Abohar, convicting and sentencing the accused-respondents under Sections 326, 324 and 323 read with Section 34 IPC were set aside.

From the record, I find that challan was presented against Hardeep Singh, Harjeet Singh, Darshan Singh and Gawarna Singh in case FIR No.119 dated 08.06.2008 under Sections 326, 325, 324, 323, 295 and 34 IPC registered at Police Station Sadar Abohar. The brief facts of the

case as noted down in the judgment passed by learned SDJM, Abohar, are as under:-

“2. The facts of prosecution case are that on 8.6.2008 on receipt of MLR No.GRA-65/2008 qua Hari Singh son of Ishar Singh resident of Bahawal Bassi, MLR No.GRA-68-2008 qua Gursewak Singh son of Hari Singh resident of Bahawal Bassi, MLR No.GRA-66-2008 qua Harjeet Singh son of Darshan Singh, MLR No.GRA-67-2008 qua Gawarna Singh son of Bhola Singh, from civil hospital, Abohar in police station, MHC handed over the same to ASI Sudarshan Kumar (hereinafter referred to as IO)for initiation of action. Thereafter, IO accompanied with other police officials reached civil hospital, Abohar, moved application regarding fitness of injured for making statement and doctor opined all the injured fit to make statement. IO recorded statement of complainant Hari Singh to the effect that he hails from village Bahawal Bassi and is agriculturist by profession. He is having three sons, elder Gursewak Singh, younger to him Gurbaksh Singh and younger to all Gurbaj Singh. It is informed that on that day Satwant Singh, grand son of the complainant went to have a round of land situated within the village where Harjeet Singh, Hardeep Singh sons of Darshan Singh, Gawarna Singh son of Bhola Singh, Darshan Singh son of Jalour Singh residents of Bahawal Bassi who are cultivating the land, adjoining to land of complainant, belonging to Jagdev Singh son of Mukhtiar Singh on lease and were doing agricultural work in the fields. It is further informed that Harjeet Singh son of Darshan Singh parked his Eicher tractor in the fields of the complainant, on which grand son of complainant asked him that why he has parked his tractor in their land, then Harjeet Singh hurled abuses to Satwant Singh grand son of the complainant and asked him that who is he to stop him from parking the tractor. At about 11:00/11:15 AM Satwant Singh grand son of the complainant informed him the matter through telephone, on which complainant alongwith his son Gursewak Singh reached in the fields and asked Harjeet Singh that why he has hurled abuses to his grand son on petty issue and he could have informed him the matter. It is further informed that Harjeet Singh son of Darshan Singh was armed with gandasa, Gawarna Singh was armed with dang and Hardeep Singh son of Darshan Singh was armed with iron rod and they all four persons started hurling abuses to the complainant. Darshan Singh raised a lalkara to catch them, then Harjeet Singh caused blow of his gandasa and in order to save himself complainant raised his left hand and same hit on finger adjoining to little finger of left hand of complainant from sharp side, then Gawarna Singh and Hardeep Singh caught hold the complainant from his neck and pushed him down and caused injury on left side of his cheek. While the complainant was

lying down, Gawarna Singh caused two dang blows consecutively which hit on back side and left side of hip of the complainant, then Hardeep Singh gave two consecutive blows of iron rod, first one hit on left side of back and other on back of left thigh, then Darshan Singh gave blow of soti which hit on back side of right thigh of complainant and also caused another blow which hit inside thumb of left hand of the complainant. It is informed that all the accused then caught the complainant and also removed hair of his beard. Complainant raised alarm which attracted his son Gursewak Singh but Harjeet Singh, Gawarna Singh, Darshan Singh and Hardeep Singh also caused him injuries. Then they both raised alarm which attracted son of complainant namely Gurbaksh Singh and Harcharan Singh son of Natha Singh who rescued the complainant from the clutches of the accused and accused along with their respective weapons fled away from the spot. Cause of enmity is that Satwant Singh grand son of complainant stopped Harjeet Singh etc., from parking the tractor in their fields and due to that grudge the accused caused them injuries. After arranging conveyance complainant and his son admitted in civil hospital, Abohar. Accordingly, the complainant has prayed for taking legal action against the accused. IO read over the statement to complainant who appended his signatures in Punjabi on the same. IO put his endorsement on the statement and sent the same to police station for registration of FIR. Photographs of the beard of complainant Hari Singh were got taken. Complainant produced hair removed from his beard which were taken into police possession vide separate recovery memo. On 9.8.2008 IO reached the spot, conducted spot inspection, prepared rough site plan, recorded statements of the witnesses and initiated investigation. On 9.6.2008 accused Darshan Singh, Harjeet Singh, Gawarna Singh were arrested. On receipt of x-ray report of Darshan Singh and Gursewak Singh offence U/s 326 IPC was enhanced. On 15.9.2008 accused Hardeep Singh was arrested. On completion of investigation and all other formalities challan against the accused was presented before the Court.”

The prosecution examined PW-1 Hari Singh, PW-2 Dr.Gobind Ram Aggarwal, PW-3 Gursewak Singh, PW-4 Dr.Neerja Gupta and PW-5 ASI Sudarshan Kumar

After the closure of the prosecution evidence, the accused were examined under Section 313 Cr.P.C. and they denied the allegations of the prosecution and pleaded their innocence. In defence, accused examined

DW-1 Harmander Singh.

Learned SDJM, Abohar, after appreciating the evidence, convicted and sentenced the accused-respondents as stated above. Aggrieved from the above-said judgment of conviction and order of sentence, an appeal was filed by the accused-respondents and the same was accepted by learned Addl. Sessions Judge, Fazilka vide judgment dated 07.11.2014 and the accused-respondents were acquitted of the charges framed against them.

Aggrieved from the above-said judgment of acquittal, present revision petition has been filed by the petitioner-complainant.

I have heard learned counsel for the petitioner and have gone through the record.

The perusal of the judgment passed by learned Addl. Sessions Judge, Fazilka shows that findings have been given as per evidence and law. Nothing has been pointed out as to which material evidence has been misread and which material evidence has not been considered. Nothing has been pointed out as to how the findings given by the learned lower Appellate Court are perverse or against the law and what illegality has been committed while accepting the appeal.

Learned Addl. Sessions Judge, Fazilka, firstly held that as per the MLR, nine injuries have been suffered by complainant Hari Singh, as well as nine injuries have been suffered by Gursewak Singh and injury No.1 on the person of Hari Singh, as well as injury No.1 on the person of Gursewak Singh was declared as grievous and the remaining injuries were declared as simple in nature. The Court held that careful perusal of the

injury No.1 on the person of Hari Singh complainant as well as on the person of Gursewak Singh, all the remaining injuries are either swelling or abrasions. The Court further held that it is highly improbable that four persons armed with deadly weapons may have inflicted only simple injuries on the person of complainant and injured Gursewak Singh. Learned lower Appellate Court also held that as per the case of the prosecution, the complainant had come to the place of occurrence after being informed by his grandson and when the complainant was having prior intimation that accused are in a mood to have a fight with the complainant party, then it cannot be presumed that the complainant might have gone empty handed to the place of occurrence. The Court further held that there is nothing in the statement of PW-1 that any injury has been caused by the complainant side to the accused person. It is also held that material facts have been concealed by the prosecution as the accused persons have also suffered injuries and these injuries have not been explained. The doctor, who had examined the injured Hari Singh and Gursewak Singh has admitted in his cross-examination that injuries No. 1 & 2 could be caused by friendly hands and self suffered. The Court further held that PW-1 Hari Singh has not described the injuries suffered by his son Gursewak Singh and similarly, Gursewak Singh, who had appeared into the witness box as PW-3 has not described the injuries suffered by his father Hari Singh. It is further stated that injuries described by Hari Singh received by him at the hands of accused, do not stand corroborated with any other evidence.

As it is a case of version and cross-version and other case is also decided by the Court below on the same day regarding injury suffered by the accused, I find that unexplained injuries on the person of accused,

creates reasonable doubt and it shows that genesis of the occurrence has been concealed by the prosecution.

In view of the above discussion, I find that the judgment dated 07.11.2014 passed by learned Addl. Sessions Judge, Fazilka, is correct, as per law and does not require any interference from this Court.

Therefore, finding no merit in the present revision petition, the same is dismissed.

September 01, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No