

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

CRA-S-321-SB-2014

Date of decision:-15.12.2017

Makhan Singh

...Appellant

Versus

State of Punjab and others

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.T.P. Singh, Advocate
for the appellant.

Ms.Samina Dhir, DAG, Punjab.

Mr.N.P.S. Singla, Advocate
for respondent No.5.

H.S. MADAAN, J.

Accused Ram Dass, Hari Dass, Charan Dass sons of Lajja Ram along with their father Lajja Ram and mother Krishna Devi faced trial by Additional Chief Judicial Magistrate, Sangrur in FIR No.31 of 8.3.2007 for the offences under Sections 148, 323, 341, 506 and 149 IPC, registered with Police Station Bhawanigarh and vide judgment dated 15.9.2010, they were acquitted of the charge framed against them.

Briefly stated, the prosecution story happened to be that FIR in this case was registered on the basis of statement of complainant Makhan Singh, which he got recorded with ASI Gurdeep Singh of Police Station Bhawanigarh on 8.3.2007, *inter alia*, stating that he has been working on canal minor as a Contractor; that on the said day at about 1:30 p.m. while he was returning home from Bhawanigarh on his motorcycle

and had reached near the Tea shop of Lajja Ram, then Hari Dass armed with stick, Ram Dass armed with *danda*, Charan Dass armed with *khurchana*, Krishna Devi wife of Lajja Ram and Lajja Ram son of Suraj Ram were standing there; on seeing the complainant Lajja Ram started abusing him loudly; that the complainant stopped his motorcycle and inquired from him the reason of his hurling abuses at him; that at that very time, Hari Dass gave stick blow to the complainant hitting him on the right side of his head; that Ram Dass gave a *danda* blow, which landed on left cheek of the complainant; that the complainant raised hue and cry, which attracted Brahmjit brother and Ajay Kumar nephew of the complainant, who intervened in an attempt to save the complainant from the assailants; that then Charan Dass and Lajja Ram caught hold of Brahmjit and gave stick blow to him hitting him on the back of his head; that Ram Dass gave a *danda* blow on the head of Ajay Kumar; that during the scuffle, accused persons had also received injuries at the hands of the complainant. The motive behind the occurrence is stated to be that there had been a litigation between the accused persons and Panchayat regarding the drain water, where the complainant party was helping the Panchayat. After registration of the formal FIR, the matter was investigated. Accused were arrested.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Illaqa Magistrate.

On presentation of challan in the Court of Illaqa Magistrate, copies of documents relied upon in the challan were supplied to the

accused free of costs as provided under Section 207 Cr.P.C.

Accused were charge-sheeted for the offences under Sections 148, 341, 323, 506 and 149 IPC, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as six witnesses, namely, PW1 Dr.Priya Gupta, PW2 Makhan Singh, PW3 Brahmjit, PW4 Karamjit Singh, PW5 ASI Gurdeep Singh and PW6 HC Sarbjit Singh.

With that the prosecution evidence stood closed.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against them were put to them but they denied the allegations contending that they are innocent and had been falsely involved in this case.

Accused did not lead any evidence in their defence.

After hearing arguments, learned Additional Chief Judicial Magistrate, Sangrur acquitted all the accused of the charge framed against them, which left the complainant aggrieved and he has filed the present appeal.

I have heard learned counsel for the parties besides going through the record.

The reasoning given by the trial Court in arriving at that conclusion is there in para No.13 of the judgment to the following effect:

With the assistance of both counsel for the parties, ocular and medical evidence was minutely perused. From the

evidence led by the prosecution, I failed to find any cogent and reliable evidence of prosecution. Against the complainant, his brother Brahmjit, nephew Ajay Kumar and other persons, Ram Dass got recorded FIR no.31, they were also admitted in Civil Hospital, but complainant Makhan and his brother Brahmjit denied that they also caused any injury on the persons of Ram Dass, Lajja Ram and Krishna Devi. Taking place of alleged occurrence at 1:30 p.m. On 8.3.2007 is an admitted fact. But complainant Makhan and his brother did not disclose the injuries caused by them on the persons of accused. The injuries found on the person of complainant and his brother Brahmjit and nephew Ajay Kumar were of simple nature. As per statement of doctor, all the injuries were superficial and were simple in nature. Investigating Officer did not take any blood stained cloth in police possession. If the fresh blood was oozing out of the wounds caused on the head of Makhan, Brahmjit and Ajay Kumar, then injured persons must have handed over blood stained clothes to the Investigating Officer. Recording of time as 2:20 p.m. on MLR No.PG/27/2007, which was prepared after MLR No.PHG/26/2007 also creates a doubt as to the veracity of prosecution story. Dr.Priya Gupta also failed to explain the time which she recorded on the MLR of Ajay Kumar. As per version of Brahmjit, he became unconscious after the receipt of injury on his head. But when

he was examined in Civil Hospital at about 2:10 p.m., he was fully conscious and doctor has stated so. Version of complainant Makhan that he was stopped by accused persons at their shop, when he was coming back from Bhawanigarh also seems to be false. Had the accused persons an intention to cause injuries on the person of Makhan, they must have caused multiple injuries on his person. It appears that to save themselves from the criminal case, which was registered against them at the instance of Ram Dass, complainant Makhan has got implicated the accused persons in the present case. The story put forth by the complainant was unbelievable and unreliable. Therefore, by disbelieving the same, I acquitted the accused persons of the charge framed against them.”

In my considered view, the judgment of acquittal passed by the trial Court is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. The same is upheld whereas appeal is found to be without any merit and the same is dismissed accordingly.

Necessary intimation be sent to the quarter concerned.

15.12.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No