

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-A-1590-MA-2017

Decided on: 16.11.2017

State of Haryana

.....Applicant

vs.

Prince and another

...Respondents

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

Present: Mr. Praveen Bhadu, Asstt. AG, Haryana.

MAHABIR SINGH SINDHU, J.

The State of Haryana has filed the present application seeking leave to prefer an appeal against the judgement dated 06.10.2016, passed by learned Addl. Sessions Judge, Ambala, for short 'Trial Court' vide which the respondents have been acquitted of the charges under Sections 148/149/323/326/307/506 of Indian Penal Code, for short 'IPC' .

2. The brief facts are that on 03.11.2014 at about 11.00 a.m., complainant Gabin Punia alongwith his friend Sukha @ Sukhpreet Singh was sitting in the playground of S.D. College, Ambala Cantt., then Ankit @ Tiger came there and asked as to why he was staring at him. Complainant and his friends tried to pacify Ankit, but he took out a knife and threatened with dire consequences and went away.

It is further alleged that at about 1.40 p.m., when complainant and his above friend were sitting near the auditorium in the college, then Ankit, Gurjinder, Ashu, Prince, Jojo and Shehri came there. Ankit was having a knife in his hand and he signaled his friends to attack upon

complainant as well as his friend Sukhpreet. Then, complainant and his friend ran towards the college playground, but Gurjinder attacked with sword on the head of Sukhpreet, but he suffered injuries on his hand while saving himself. Thereafter, Shehri, Gurjinder, Jojo, Prince, Ashu encircled Sukhpreet. Ankit and Gurjinder also inflicted injuries on the complainant and the entire occurrence was witnessed by Ajay and Monu and they rescued the complainant and Sukhpreet and ultimately, the injured were taken to Civil Hospital, Ambala Cantt. and from there Sukhpreet was referred to PGI, Chandigarh.

On the basis of the above allegations, an FIR No.393 dated 04.11.2014 under Sections 148/149/323/326/307/506 IPC was registered at Police Station, Ambala Cantt. and after investigation, report under Section 173 Cr.P.C. was submitted. Thereafter, the case was committed to the Ld. Sessions Court. Prima-facie it was found that accused have committed offences under Sections 148, 323, 307 and 506 read with Section 149 IPC and they were charge sheeted under the said offences. All the accused pleaded not guilty and claimed trial.

3. In order to prove its case, the prosecution examined twelve witnesses and also brought on record documentary evidence and entire incriminating material was put to accused/respondents while recording statement under Section 313 Cr.P.C., but they denied the same being falsely implicated and claimed innocence. The respondents did not lead any evidence in their defence.

4. Learned Trial Court after taking into consideration the entire material available on record, acquitted respondents of the charges by granting them benefit of doubt.

5. Hence, the present application for special leave to appeal.
6. Learned State counsel has argued that the impugned judgment is based on surmises and conjectures and the trial Court has ignored the material evidence on record.
7. Heard Ld. State counsel and perused the paper book, but this Court does not find any merit in the submissions.
8. PW-6 complainant deposed that Prince, Arshdeep, Rajat @ Jojo did not cause any injury to him and he was also not able to say as to which accused caused which injury to the injured.
9. PW-7 Sukhpreet deposed that Ankit inflicted a sword blow on his left side of back and he has further stated that he had no enmity with Jojo and Prince and he had also stated that Prince did not cause any injury to any of them.
10. PW-8 Manish Singh I.O. deposed that neither any recovery was effected from Rajat @ Jojo and Prince; nor any material was collected during investigation that Rajat or Prince has caused any injury.
11. PW-9 Sham Lal, ESI deposed that statement of Gurjinder was recorded on 03.11.2014 and he admitted the factum of medico legal report of Gurjinder. He has also stated that he met Ajay and Manish on 03.11.2014, but they did not get recorded their statements and which was only recorded on 05.11.2014. This witness has also admitted that he visited the place of occurrence on 03.11.2014, but did not prepare any site plan on that day. He has further deposed that he met Chowkidar and Peon in the college on 03.11.2014 and they told regarding the occurrence, but he did not record their statements; either on that day or later on. He has also stated that he neither met complainant on 03.11.2014, nor recorded his statement;

whereas the complainant stated that he got recorded his statement to the police in Hospital on 03.11.2014 itself. From testimony of the witnesses, injuries were also suffered by the accused side.

12. PW-10 Dr. Love Jindal, medically examined the complainant on 03.11.2014 and sent a ruka to police post regiment.

13. PW-11 Dr. Deepakor deposed about admission of Sukhpreet Singh-PW-7, whom he treated.

14. PW-12 ASI Jarnail Singh arrested accused Prince and interrogated accused Arshdeep and Rajat @ Jojo.

15. The occurrence is alleged to have taken place on 03.11.2014 at 1.45 p.m. and the complaint was made to the police on 04.11.2014 at 5.30 p.m. by the complainant. Despite the fact that ruka was received from the Doctor of General Hospital, Ambala on 03.11.2014, itself, there is no explanation as to why the delay has occurred in registration of complaint. The complainant has specifically mentioned two eye witnesses to the occurrence, namely, Ajay and Monu, but none of them has been examined and a cross case was also registered by way of a private complaint filed by Gurjinder and the complainant side is facing trial for the same occurrence and the same is stated to be pending.

16. As per the testimony of complainant, Sukhpreet Singh remained in hospital for 10-15 minutes and the complainant for one hour. During this period more than 10 students reached in the General Hospital and even the press reporters and one police official also came there and narrated the occurrence to the press reporter as well as to the police official who recorded his statement and obtained signatures. There is no dispute that present case was initiated on the basis of a complaint which was made

on the next day i.e. 04.11.2014 at 5.30 p.m. and there is no mention about the statement which he got recorded to the police on 03.11.2014. This witness has also deposed that complaint was scribed by sitting in the police post, Regiment Bazar and he was accompanied by Ajay and Manish. This witness also stated that he disclosed about the occurrence to his family members telephonically on 03.11.2014 for taking action against the guilty persons, but did not disclose their names and manner of occurrence to his parents. He has further deposed that Gurjinder did not suffer any injury, but as a matter of fact the defence witness Dr. Gagandeep Singh, who medically examined Gurjinder on 03.11.2014 at 04.00 p.m. deposed that Gurjinder has suffered the injuries.

17. Neither in the complaint nor any PW has deposed that both the respondents, i.e. Prince and Rajat @ Jojo have caused any injury to anyone. Even there is no recovery from both the respondents.

18. Two separate challans were filed in which Prince, Arshdeep, Rajat @ Jojo were arrayed as accused and in the separate challan, Gurjinder and Ankit were arrayed as accused.

19. Ld. Trial Court rightly observed that complainant party is aggressor and not the accused side. Even otherwise, there is no incriminating material or evidence against the present respondents to prove the charges and Ld. Trial Court has rightly acquitted both of them.

20. There is one more important aspect of the matter brought to the notice of this Court that against the judgment of acquittal dated 06.10.2016, the complainant Gabin Punia also filed CRM-A-2156-MA-2017 before this Court for seeking special leave to appeal against the present respondents and Arashdeep Singh, but the same was withdrawn on 06.11.2017 by submitting that the parties have entered into compromise.

21. In view of the above, no ground is made out to grant leave to file the appeal against acquittal of the respondents. Consequently, the application under Section 378(3) Cr.P.C. for leave to file the appeal against the judgment dated 06.10.2016 passed by Ld. Trial Court is hereby dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

(MAHABIR SINGH SINDHU)
JUDGE

16.11.2017
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No