

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

CRA-S-1655-SB-2004
Date of decision: 10.12.2018

Hardeep Kumar ... Appellant

versus

State of Punjab ... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Mohd. Salim, Advocate
for the appellant.

Mr. Pankaj Gupta, Addl. AG, Punjab.

Manjari Nehru Kaul, J.

This appeal is directed against the judgment of conviction and order of sentence dated 13.08.2004 passed by learned Addl. Sessions Judge (ad hoc) Fast Track Court, Sangrur. By the aforesaid judgment and order, the accused-appellant has been sentenced to undergo rigorous imprisonment for a period of one year for the offence punishable under Section 353 IPC and to pay a fine of ₹ 500/- and in default of payment of fine, to suffer further rigorous imprisonment for a period of one month. He has also been convicted and sentenced to undergo rigorous imprisonment for period of one month for the offence punishable under Section 186 IPC and one and half year under Section 333 IPC and to pay a fine of ₹ 500/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. All the sentences have been ordered to run concurrently.

2. The short case of the prosecution is that on 11.06.2003 complainant Geja Singh (PW-1), who was working as Assistant Lineman in

Punjab State Electricity Board (in short 'PSEB') City Sub Division Dhuri along with his colleagues PW-2 Darshan Singh, Ram Bahadar and PW-3 Amarjit Singh went to Ward No.1 Dhuri for sealing the electricity meters, which were being operated illegally. During the course of their visit, when they came to the house of the accused-appellant Hardeep Kumar, it came to their notice that there was illegal electricity supply to his house as there was no meter installed in his house. The complainant as well as other officials accompanying him thus, disconnected the line. In the meantime, the accused-appellant on reaching his house started hurling abuses at the complainant and inflicted a fist blow on his nose. The other officials accompanying the complainant rushed to his rescue and saved him from the clutches of the accused-appellant. The complainant was immediately shifted to the Civil Hospital, Dhuri by his colleagues, who were accompanying him. The police was duly informed by the hospital about the admission of the complainant. Soon thereafter PW-7 ASI Baldev Singh reached Civil Hospital, Dhuri. After ascertaining the fitness of the complainant vide application Ex.PE and the subsequent endorsement of the attending doctor vide Ex.PE/1 declaring the complainant fit to make a statement, PW-7 ASI Baldev Singh proceeded to record the statement of the complainant Geja Singh Ex.PA. Thereafter, a formal FIR for the offences punishable under Sections 352, 333, 325, 323, 186 IPC was registered at Police Station Dhuri on 11.06.2003.

3. After the completion of investigation, challan was presented. Learned trial Court framed charges against the accused-appellant under Sections 353/186/333 IPC to which he pleaded not guilty and claimed trial.

4. The prosecution examined as many as seven witnesses. Statement of accused under Section 313 Cr.PC was recorded in which he denied all the incriminating circumstances appearing against him.

5. The accused examined one witness in his defence and thereafter, closed his evidence.

6. I have heard Mr. Salim, counsel for the appellant as well as Mr. Gupta, counsel appearing for the State and perused the evidence on record.

7. The complainant Geja Singh (PW-1) is a stamped witness having suffered an injury on his nose. While appearing before the learned trial Court, complainant has fully supported the case of the prosecution. His deposition finds full corroboration with the medical evidence as well. PW-4 Dr. Ramesh Sharma, who medico-legally examined the complainant on 11.06.2003 at 5:30 pm found the following injuries on his person:

i) There was a contusion mark on the base of nose with bleeding per nose rings perfuse one. X-ray was advised.

8. One fact, which cannot escape notice is that the occurrence took place at about 4:45 pm and the complainant had been shifted to Civil Hospital, Dhuri within 45 minutes of the occurrence and thereafter as per the deposition of PW-7 ASI Baldev Singh, the statement of the complainant had been recorded at 5:30 pm which, thus, goes a long way to rule out the possibility of an embroidered version. PW-2 Darshan Singh and PW-3 Amarjit Singh, who were accompanying the complainant in the discharge of their official duties at the time of occurrence and who had taken the complainant to the hospital also fully supported the prosecution case.

9. Learned counsel for the appellant vehemently urged that due to party factions in the village the complainant party had falsely implicated him in the instant case.

10. This submission of the learned counsel for the appellant is bereft of any merit and not supported by any iota of evidence.

A perusal of the evidence adduced during the trial does not even obliquely refer to any kind of history of animosity between the appellant and any of the prosecution witnesses.

11. Learned counsel for the appellant also challenged the medical evidence qua the nasal bone fracture having been suffered by the complainant at the hands of the appellant. Learned counsel for the appellant has argued that the occurrence took place on 11.06.2003 yet the X-ray of the complainant was done after a gap of one month i.e. on 14.07.2003, which casts a shadow of doubt on the authenticity of the prosecution version.

12. A perusal of the evidence of PW-4 Dr. Ramesh Sharma reveals that the first X-ray was conducted soon after the admission of the complainant at Civil Hospital, Dhuri on 11.06.2003. Since there was no Radiologist posted at the said hospital at that point of time, hence, the X-ray films were referred for expert opinion to Rajindera Hospital, Patiala by the Civil Surgeon, Sangrur along with the X-ray film of the complainant. It was at Rajindera Hospital, Patiala where PW-5 Dr. Sanjay Sethi preferred to conduct afresh X-ray of the complainant and thereafter gave his report Ex.PH, which showed that the complainant had suffered a nasal bone fracture. Hence, the delay in obtaining

the opinion of the Radiologist qua the nature of injury stands well and satisfactorily explained.

13. Another argument, which was raised by the learned counsel for the appellant that no independent witness was joined by the investigating agency during the investigation, is totally devoid of merit inasmuch as officials accompanying the complainant deposed on the same lines as complainant. The presence of these witnesses along with the complainant was most natural and cannot be doubted at all.

14. In the wake of aforementioned discussion and from the evidence adduced before the learned trial Court, it stands clearly established by way of cogent evidence that the complainant, who was a government servant, was obstructed by the appellant while he was discharging his official duties. The obstruction was wilful and voluntarily.

15. I do not find any infirmity in the finding recorded by the trial Court.

16. Learned counsel for the appellant has submitted that a lenient view be taken as the appellant is a daily wager. He has been facing the agony of trial for the last 15 years. In the last 1½ years, he has lost his two grown up children and after the death of his two children, he has been fastened with huge responsibility and liability.

16. As per the custody certificate filed by the learned State counsel, the appellant has undergone only 8 days out of total sentence of 1½ years awarded to him.

17. Accordingly, keeping in view all the circumstances of the case, I am of the considered opinion that ends of justice would be met if sentence of 1 year awarded under Section 353 IPC is reduced to rigorous imprisonment for 3 months and the sentence of 1½ years awarded under Section 333 IPC is also reduced to rigorous imprisonment for 3 months. The sentence of fine awarded under Sections 353 and 333 IPC is, however, enhanced to ₹ 5,000/-. In case of default, he shall undergo rigorous imprisonment for one month. It goes without saying that all the sentences shall run concurrently.

18. With the above modification, the appeal is disposed of.

10.12.2018
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/non-speaking? Yes/No

Whether reportable? Yes/No