

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

**CRM-37559 of 2017 in/and
CRD-D-668-DB of 2015
Date of Decision: May 30, 2018**

Charan Kaur

...Applicant

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S MANN
 HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present: Mr. S.P.S. Sidhu, Advocate
 for the applicant.

FATEH DEEP SINGH, J.

A case by way of FIR No.24 dated 29.01.2010 under Sections 302,323,427,506,148,149 IPC was registered with Police Station Samana in which accused Jagdeep Singh @ Jaggi, Nirbhai Singh @ Mitha, Karnail Singh @ Bittu and Ranjit Singh @ Jeetu were put to trial, whereas, proceedings against accused Avtar Singh @ Gogi were dropped in view of the order of Hon'ble High Court dated 29.1.2015 passed in Criminal Revision 2390 of 2013.

The allegations against the accused levelled by the complainant Paramjit Singh are that; he was an agriculturist and on 27.01.2010 around 8 p.m. he alongwith his servant Kala

had gone to the liquor vend on his motorcycle bearing No.PB-42A-8035 and when he entered the liquor vend it is alleged that accused Jaggi armed with handle of hand-pump, Ranjit Singh @ Jeetu, Karnail Singh @ Bittu armed with *dandas*, Nirbhai Singh @ Mitha armed with *dang* and Gaggi, Binder Singh alongwith two unknown persons came there and started raising *lalkaras* that Gurpreet Singh be killed. It is at this juncture, as per the allegations, Jaggi gave a handle blow of hand-pump on the left side of the head of Gurpreet Singh and when complainant came to his rescue accused Bittu and Jittu gave *danda* blows on his head as well as shoulder. On raising *raula*, accused ran away with their weapons meting out threats to the complainant. The complainant was rushed to Civil hospital, Samana and thereafter, referred to Rajindra Hospital Patiala, from where he was sent for higher treatment to PGIMER, Chandigarh, where he died as a consequence of his injuries on 01.2.2010. The motive behind this occurrence was that Jaggi and Mitha owed money for harvesting wheat crop which they failed to do so and when Gurpreet Singh asked for the same they refused to do so. Upon presentation of challan, at the trial, prosecution examined Dr. Rajesh Kumar PW1, who tendered his affidavit Ex.PA and proved MLR Ex.PB; PW2 ASI Gurdeep Singh, tendered his affidavit Ex.PC;

PW3 Harvinder Singh, Halka Patwari proved on record scaled site plan as Ex.PD; PW4 Paramjit Singh, proved statements Ex.PA and Ex.PE, followed by testimony of Dr. S.S. Oberoi PW5, from Government Medical College, Patiala, who tendered his affidavit Ex.PW5/A, postmortem report as Ex.PW5/B, police request as Ex.PW5/C, endorsement Ex.PW5/C1, inquest report Ex.PW5/D. Thereafter, PW6 ASI Darshan Singh has proved his investigations through EX.PW6/A, Ex.PW6/B, Ex.PW6/C, Ex.PW6/D, Ex.PW6/E, Ex.PW6/F, Ex.PW6/G. PW7 ASI Tej Singh proved on record statement of complainant Ex.PE, endorsement Ex.PE/1, FIR Ex.PW/2, Site plan Ex.PF, application regarding fitness of Gurpreet Singh as Ex.PG, endorsement Ex.PG/1, recovery memo of parcels Ex.PH, personal search memo of accused Ex.PJ and arrest-cum-intimation memo as Ex.PK. PW8 HC Jaswinder Singh tendered his affidavit Ex.PL. PW9 ASI Sahib Singh proved on record disclosure statement of accused Jagdeep Singh as Ex.PM, rough sketch of handle of hand-pump Ex.PM/1, recovery memo as Ex.PM/2 and rough site plan as Ex.PW/3. PW10 Inspector Jaswinder Singh Tiwana proved on record case property memo as Ex.PM/4. Thereafter, the prosecution evidence was closed. The entire incriminating evidence was put to accused, who in their stand under Section

313 Cr.P.C denied the same but did not lead any evidence in defence. It was through judgment dated 16.03.2015, the Court of learned Additional Sessions Judge, Patiala held that the prosecution has failed to prove its case against accused Nirbhai Singh @ Mitha, Karnail Singh @ Bittu and Ranjit Singh @ Jeetu and, thus, acquitted them of the charges and held that charges against accused Jagdeep Singh @ Jaggi stood proved and held him guilty under Section 302 IPC.

Heard, learned counsel for the applicant and perused the records of the case.

It is admitted case of the prosecution and is also proved by PW1 Dr. Rajesh Kumar, who examined Gurpreet Singh and detailed the injuries as follows:-

1. Incised wound 5-1/2x 1/2 cm on the left fronto temporal bone 7 cm above the left ear pinna. Fresh bleeding was present. Advised X-ray and referred to Rajinder Hospital Patiala for further management.

The first and the foremost point that arises is the lack of motive. Though, it is claimed that accused Jaggi and Mitha owed money to the deceased but no evidence has been led to this effect. Besides the fact that complainant Paramjit Singh who claims to have witnessed the occurrence is alleged to have too been given injuries, however, nothing has been proved on the records as to his injuries. It therefore, casts serious

doubt over his presence at the time of occurrence. Besides the fact, the claim of this eye-witness that the accused had also damaged the motorcycle before running away from the spot could not be proved to corroborate the allegations of the prosecution. The claim of the prosecution that other accused too have given injuries are not at all substantiated either by the MLR or the postmortem report or by any other medical evidence. Since the onus lay heavily upon prosecution to establish its case to bring about the guilt of the entire set of accused so arraigned before the Court but having failed to do so has only proved and established role of one of the accused who has since been convicted by the Court below. Further, what meets the eye during the course of hearing of submissions that the occurrence is stated to have taken place on 27.01.2010 while FIR has been lodged on 29.1.2010, after two days of the occurrence and, therefore, this is another feature in the prosecution story to scrutinise its evidence with more care and caution. The non-proving of injury on the shoulder of complainant Paramjit Singh, who claimed that he tried to rescue the deceased was not at all corroborated by any medical evidence and, therefore, false implication of the other accused cannot be ruled out. From the over all evidence and circumstances on the file, it bears out that the witnesses of the prosecution are somewhat interested and

have exaggerated the allegations with motivated cause and, thus, it has been rightly concluded by the Court below that the prosecution has not been able to prove its case against accused Nirbhai Singh @ Mitha, Karnail Singh @ Bittu and Ranjit Singh @ Jeetu.

In the light of what has been detailed and discussed above, we do not feel inclined to show any indulgence. The application for leave to appeal stands declined and consequently the appeal stands dismissed.

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

**(FATEH DEEP SINGH)
JUDGE**

May 30, 2018
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Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No