

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

CRR No.3771 of 2014 (O&M)
Date of Decision: March 19, 2018

Bhupinder Singh

...Petitioner

VERSUS

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE A.B.CHAUDHARI
HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Arvind Thakur, Advocate
for the petitioner.

Mr.Vivek Saini, Deputy Advocate General, Haryana
for the respondent-State.

Mrs.Baljit Mann, Advocate
for respondent No.2.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Bhupinder Singh against respondents State of Haryana and Harpreet Singh, challenging the impugned judgment dated 28.07.2014 passed by learned Principal Magistrate, Juvenile Justice Board, Sirsa, vide which the accused-respondent was acquitted.

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

The perusal of the record shows that a case vide FIR No.158 dated 17.06.2008 under Sections 323, 324, 307, 302, 506 read with Section

34 IPC was sent by Police for enquiry against Juvenile Harpreet Singh. The brief facts of the case as noted down in the judgment passed by learned Principal Magistrate, JJB, Sirsa, are as under:-

“2. Briefly stated, the case of the prosecution is that on 16.6.2008 VT message from Police Station City, Sirsa was received regarding admission of injured Narottam Singh @ Mithu Singh son of Nikka Singh, resident of village Math Dadu in the General Hospital, Sirsa, upon which ASI Suraj Bhan alongwith HC Rakesh Kumar reached the General Hospital, Sirsa for recording statement of injured Narottam Singh but the doctor informed that the injured had been referred to PGIMS, Rohtak. Thereafter, a telephonic message was received from the Police Station, Civil Lines, Hisar, regarding admission of injured Narottam Singh in Metro Hospital, Hisar upon which ASI Suraj Bhan alongwith EHC Richpal Singh reached there but the injured was declared unfit to make a statement. On 17.6.2008 ASI Suraj Bhan again visited Metro Hospital, Hisar for recording statement of injured Narottam Singh. That time also the doctor declared the injured to be unfit to make a statement. However, Harvinder Singh son of Surjit Singh, resident of Math Dadu, nephew of the injured was present there and he made a statement Ex.PA to the police to the effect that he has passed 10+2 examination and works as an agriculturist. On 15.6.2008 at about 7.00 PM when he came out of the Gurudwara after paying obeisance he noticed that adjacent to the Gurudwara and opposite the milk shop, on the road, Sandeep Singh son of Roop Singh, caste Jat Sikh, resident of Math Dadu was beating his uncle (taaya) Narottam Singh @ Mithu Singh son of Nikka Singh, who had come there to supply milk in the dairy, by giving fist and slap blows. Jagjit Singh son of Tota Singh, armed with a Kappa in his hand, also came there and inflicted a Kappa blow on the head of his uncle Narottam Singh. On hearing commotion, Roop Singh son of Kartar Singh, Harpreet Singh and Gurpreet Singh sons of Jagjit Singh also reached. Harpreet Singh and Gurpreet Singh sons of Jagjit Singh also reached there. Harpreet Singh who was holding a gandasa in his hand, dealt its blow on the head of his uncle which hit in front side. That his uncle fell down on the ground. When he intervened to rescue him, Gupreet Singh and Roop Singh caught him. Jagjit Singh gave fist and slaps to his uncle while he was still lying on the ground. He raised alarm, upon which his father Surjit Singh and many other persons also gathered there. On seeing them, the assailants fled away from the spot alongwith their respective weapons. While leaving the spot, they threatened them “if they try to cultivate the land on any occasion, then they would be eliminated”. Then he and his father Surjit Singh,

after arranging a conveyance, shifted his uncle Narottam Singh to the hospital for treatment. Bhupinder Singh son of his uncle, who resides at Bathinda, was telephonically informed. The doctor at the General Hospital, Sirsa referred his uncle to the PGI, Rohtak but keeping in view his deteriorating condition, he and Bhupinder Singh got him admitted in the Metro Hospital, Hisar. His uncle is unconscious due to the impact of injuries. Yesterday he was away to his relations for arranging money for treatment. It has been prayed that legal action be taken against the assailants. On the basis of this statement, the present case was registered on 17.6.2008 under Sections 323, 324, 506 and 34 IPC. On 17.6.2008, the doctor declared injuries No.1 and 2 on the person of Narottam Singh as dangerous to life and then offence under Section 307 IPC was added to the case. On 22.6.2008 on receipt of a VT message from Police Station Civil Lines, Hisar, regarding death of Narottam Singh, offence under Section 302 IPC was also added to the case. Inquest proceeding was conducted. Rough site plan was prepared and later scaled site plan of the place of occurrence was got prepared. Then investigation of this case was taken over by Inspector Gurdayal Singh and was verified by the DSP, Dabwali. Accused Sandeep Singh and Jagjit Singh were arrested on 27.6.2008 and accused Jagjit Singh got his weapon of offence recovered which was taken into possession vide recovery memo. Site plan of the place of recovery was prepared. Statements of the witnesses were recorded under section 161 Cr.P.C. During investigation, Gurpreet Singh and Harpreet Singh sons of Jagjit Singh and Roop Singh son of Kartar Singh were found innocent. On completion of investigation, challan was presented in the court against accused Jagjit Singh and Sandeep Singh under Sections 323, 324, 307, 506, 302 read with Section 34 IPC.

3. It is pertinent to mention here that vide order dated 9.01.2009 of learned Sessions Judge, Sirsa, the accused Harpreet Singh, Gurpreet Singh and Roop Singh were summoned as additional accused to face trial under Sections 302/34 IPC alongwith accused Jagjit Singh and Sandeep Singh. It is also pertinent to mention here that Harpreet Singh was declared juvenile by the Hon'ble High Court vide order dated 15.9.2009 and therefore, the then learned Sessions Judge, Sirsa directed the prosecution to file supplementary challan against Harpreet Singh before the Juvenile Justice Board and thereafter, the inquiry report against the juvenile was forwarded to the Board.”

Complete copy of enquiry was supplied to the juvenile under

Section 207 Cr.P.C. Finding prima facie case against the juvenile, notice of

accusation under Section 148, 302 read with Section 149 IPC was served upon him, to which he pleaded not guilty and claimed enquiry.

In support of its case, prosecution examined PW-1 Harvinder Singh, complainant, PW-2 Surjit Singh, PW-3 Dhan Singh, who mainly deposed as per prosecution version. PW-4 Dr.Jagdeep Kumar deposed he medico-legally examined Narottam Singh @ Mithu Singh on 15.6.2008 and found following injuries:-

1. *Incised wound 3 cm x 0.5 cm over left parietal area of scalp with blood and clots present. Injury was bone deep.*
2. *Incised wound 3 cm x 0.5 cm over left temporo parietal area of scalp with blood and clots present. It was also bone deep.*

In the opinion of the doctor, the weapon used for both the injuries was sharp and duration was less than six hours. PW-5 Dr.Ashok Kumar Gupta, Radiologist, proved the patient record. PW-6 Dr.Ashish Rana deposed that he along with other doctors, conducted post-mortem examination on the dead body Narottam Singh and in the opinion of the doctors, the cause of death was injury to vital organ (brain), which was sufficient to cause death. The injuries were ante mortem in nature. PW-7 Dr.Jagdish Sethi deposed regarding X-ray report of chest of Narottam Singh but found no fracture. PW-8 SI Suraj Bhan mainly deposed regarding initial investigation conducted by him in the present case. PW-9 ASI Atma Ram, is a formal witness, who tendered into evidence his affidavit Ex.PW9/A. PW-10 EHC Surjit Singh deposed that the doctor handed over him sealed parcels which he delivered to ASI Suraj Bhan and same were taken into police possession. PW-11 ASI Rakesh Kumar mainly deposed that Jagjit

Singh produced iron kappa, which was taken into police possession. PW-12 ASI Shub Ram (Retd.) deposed regarding recording of formal FIR. PW-13 Head Constable Mohan Lal mainly proved the scaled site plan ExPW13/A. PW-14 Inspector Gurdayat Singh deposed regarding partial investigation conducted by him in the present case and arrest of accused Jagjit Singh and Sandeep Singh. PW-15 Dr.SanjayVerma deposed regarding opinion given by him on the police application qua nature of injuries.

At the close of the prosecution evidence, statement of juvenile was recorded and he pleaded innocence and false implication. In defence, juvenile examined DW-1 Surjeet Singh, who deposed that on 15.06.2008, he was present at his dairy, which is situated near the dairy of Krishan Kumar. Darshan Singh works in said shop of Krishan Kumar. At about 6.45-7.00 p.m., accused Sandeep Singh was sitting at a distance of 5-7 feet from their shops. Then Narottam Singh @ Mithu armed with *danda* came from the side of his house and started abusing Sandeep Singh. He gave *danda* blow on the head of Sandeep Singh and the latter in order to save himself, rushed towards their shops, but was followed by Narottam Singh. He further deposed that he and Darshan Singh intervened to save Sandeep Singh and in the meantime, Jagjit Singh came there. Narottam Singh gave a danda blow on his left arm and on face of Jagjit Singh. Then Narottam Singh fell down inside his (DW-1) shop on a bench after sustaining injuries on his head. Then he and Darshan Singh dropped Narottam Singh at his house. This witness further deposed that Harpreet Singh, Gurpeet Singh, Harinder Singh and Surjeet Singh were not present there and police reached the spot after two days of the occurrence. Then he and Darshan Singh had

narrated the entire incident to the police as they had seen the occurrence.

DW-2 Darshan Singh also made the similar statement as made by DW-1 Surjit Singh. DW-3 Dr.Raj Kumar deposed that he medico-legally examined Sandeep Singh and found that there was a lacerated wound on left frontal eminence of size 4 x 0.5 cm x 1 cm with fresh bleeding and red in colour. He further deposed that he medico-legally examined Jagjit Singh and found following injuries:-

1. *Two lower central incisor teeth were broken and there was no injury on lip and gums. Advised Dental Surgeon Opinion.*
2. *Small abrasion on outer aspect of right wrist, red in colour. X-ray was advised.*

Learned Principal Magistrate, JJB, Sirsa, on the basis of the evidence, acquitted the juvenile vide impugned judgment dated 28.07.2014.

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

First of all, in this case, the occurrence took place on 15.06.2008 at about 7.00 p.m. and the FIR was registered on 17.06.2008 i.e. after 48 hours. Though, prosecution has tried to explain the delay by stating that Narottam Singh was unfit to make the statement but Harvinder Singh, who is nephew of Narottam Singh, was the eye witness and he could have easily reported the matter to the police. It is settled law that delay in recording the FIR cannot be held as fatal to the prosecution case but in such a situation, the Court is to scrutinize the evidence more cautiously and carefully to find out whether any person has been implicated falsely and also whether the version has been concocted or exaggerated. As per the doctor, in this case two injuries were found which were of the same

dimensions, which means that these may be caused by one and the same weapon. As per prosecution version, two weapons i.e. one kappa and other is gandasa, were used in the occurrence but as discussed above, both the injuries can be caused by one weapon only.

Further, we find that during investigation, the juvenile was found innocent and he was summoned under Section 319 Cr.P.C. We also find that as per DW-3 Dr.Rajinder Singh, there were injuries on the vital part of co-accused Sandeep Singh, besides injured on the person of Jagjit Singh. These injuries on the persons of co-accused, have not been explained by the prosecution. It is not the case of the prosecution that Narottam Singh was having any weapon or he also caused injury or some other person has caused the injuries to the accused side. This fact further creates doubt in the prosecution version.

In the present case, nothing has been pointed out at the time of arguments, as to how findings given by learned Juvenile Justice Board are perverse or against the evidence. Nothing has been pointed out as to which material evidence has been misread or which material evidence has not been considered. There is also nothing on the record to show that any illegality has been committed by learned Juvenile Justice Board while acquitting juvenile Harpreet Singh. A reasonable doubt exists in the prosecution version and benefit of doubt, is always given to the accused/juvenile in conflict.

In view of the above discussion, we find that the impugned judgment dated 28.07.2014 passed by learned Principal Magistrate, Juvenile Justice Board, Sirsa, is correct, as per law and evidence and does not require any interference from this Court.

Therefore, finding no merit in the present revision petition, the same is dismissed. However, whatever stated above, is only for the disposal of this revision petition.

(A.B.CHAUDHARI)
JUDGE

(INDERJIT SINGH)
JUDGE

March 19, 2018
Vgulati

Whether speaking/reasoned
Whether reportable

Yes
No