

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

(1) CRR No.1881 of 2018 (O&M).
Decided on:-August 24, 2018.

Gurmit Singh son of Balwinder Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

(2) CRR No.1915 of 2018 (O&M).

Lakhwinder Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

(3) CRR No.1926 of 2018 (O&M).

Gurmit Singh son of Jagdev Singh.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. B.S. Sidhu, Advocate
for the petitioner in CRR No.1881 of 2018.

Mr. Ruhani Chadha, Advocate
for the petitioner in CRR No.1915 of 2018.

Mr. Inderjit Sharma, Advocate
for the petitioner in CRR No.1926 of 2018.

Mr. Tanvir Joshi, AAG, Punjab
for the respondent-State.

HARI PAL VERMA, J.

This order shall dispose of the aforementioned three criminal revision petitions as the same have arisen from a common FIR No.71 dated 26.07.2012 under Sections 353, 186, 332, 506 and 427 read with Section 34 IPC registered at Police Station Sadar Bathinda, District Bathinda. Moreover, all the petitions have been filed against judgment dated 02.05.2018 passed by learned Additional Sessions Judge, Bathinda whereby three separate appeals filed by the petitioners against the judgment of conviction and order of sentence dated 13.09.2017 passed by learned Additional Chief Judicial Magistrate, Bathinda, were dismissed.

However, for convenience and clarity, the detailed order is being passed in ***CRR No.1881 of 2018*** titled as ***Gurmit Singh Versus State of Punjab***.

Briefly stated, the aforesaid FIR was registered on the basis of statement made by complainant Kuldeep Singh. As per the complainant, he being working as J.E. with the Electricity Board was posted at Electricity Grid, Balluana. On 23.07.2012, the petitioners-accused, namely, Gurmit Singh son of Balwinder Singh, Lakhwinder Singh and Gurmit Singh son of Jagdev Singh along with 10-15 other persons came in the Electricity Grid.

While accused Lakhwinder Singh gave a Soti blow on his shoulder, accused

Gurmit Singh son of Balwinder Singh gave a Soti blow on his left side above arm due to which he fell down. Then accused Lakhwinder Singh gave a Soti blow on his chest which hit on the right side of his chest and other persons gave him kick blows. However, when Angrej Singh tried to save him, all the accused gave kick blows to Angrej Singh as well. Thereafter, they dismantled the articles of Electricity Grid and while leaving the spot, all the accused threatened to kill them. Thereafter, the accused ran away from the spot along with respective weapons.

The matter was reported to the senior officer of the Electricity Department, who reached the spot and got admitted injured Kuldeep Singh in Civil Hospital, Bathinda. Accused Lakhwinder Singh was arrested on 13.08.2012 and Soti was recovered from his possession, whereas accused Gurmit Singh son of Balwinder Singh and Gurmit Singh son of Jagdev Singh were arrested on 14.08.2012 and Soti was taken into possession by the police.

After completion of investigation, Challan under Section 173 Cr.P.C. was presented in the Court. Copies of Challan, as envisaged under Section 207 Cr.P.C., were supplied to the accused free of costs.

Finding a prima-facie case against the accused, they were charge-sheeted for the commission of offence punishable under Sections 353, 186, 332, 506 and 427 read with Section 34 IPC to which they did not plead guilty and claimed trial.

The prosecution examined complainant-injured Kuldeep Singh as PW1, Dr. S.S. Romana as PW2, Dr. Satish Jindal as PW3, ASI Ranjodh

Singh as PW4 and Angrej Singh as PW5. Besides this, documents Ex.PX1 to Ex.PX4 were also tendered into evidence.

Thereafter, statements of the accused under Section 313 Cr.PC were recorded, wherein all the incriminating evidence produced against them was put to them, but they denied and claimed their false implication. In defence, the accused did not adduce any evidence.

The point for determination before learned trial Court was as under:

“That on 23.07.2012 at about 10.00 P.M. in the area of Power Grid, Balluana, you all accused in furtherance of common intention of each other assaulted or used criminal force to Kuldeep Singh JE and Angrej Singh Assistant Lineman and caused obstruction in their official duty, who were public servants and discharging their official duties and caused hurt to Kuldeep Singh and threatened to Kuldeep Singh and also caused damage to power grid.”

Vide impugned judgment dated 13.09.2017, learned trial Court has observed that the testimony of complainant Kuldeep Singh as PW1 lent support to the prosecution story in all respects on material points coupled with medical evidence, the prosecution has been successful in its endeavour to slap the criminal liability upon all the accused, namely, Lakhwinder Singh, Gurmit Singh son of Balwinder Singh and Gurmit Singh son of Jagdev Singh. Learned trial Court further observed that the prosecution has duly proved on record that all the accused in furtherance of the common intention of each other assaulted the public servant Kuldeep Singh, J.E. and caused obstruction in the discharge of his public duty and caused injuries on his person and

damaged the public property of power grid and criminally intimidated the complainant. Thus, learned trial Court held the petitioners guilty and convicted them for commission of offence under Sections 353, 186, 332, 506 and 427 read with Section 34 IPC.

Vide separate order of sentence dated 13.09.2017, learned trial Court sentenced the petitioners as under:

<u>Offence</u>	<u>Sentence</u>
Section 353 read with Section 34 IPC	Rigorous Imprisonment for two years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo simple imprisonment for two months each.
Section 186 read with Section 34 IPC	Rigorous Imprisonment for six months each.
Section 332 read with Section 34 IPC	Rigorous Imprisonment for two years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo simple imprisonment for two months each.
Section 506 read with Section 34 IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo simple imprisonment for one month each.
Section 427 read with Section 34 IPC	Rigorous Imprisonment for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo simple imprisonment for one month each.

However, it was ordered that all the substantive sentences shall run concurrently.

Feeling aggrieved, the petitioners preferred three separate appeals before the Court of Session, but the same were also dismissed by learned Additional Sessions Judge, Bathinda vide impugned judgment dated 02.05.2018 and observed that the medical evidence supports the case of the

prosecution. As per PW2 Dr. S.S. Romana, medico-legal report Ex.PW2/B of injured Kuldeep Singh and pictorial diagram Ex.PW2/C, there were three injuries and kind of weapon was blunt for all. Similarly, PW3 Dr. Satish Jindal proved on record x-ray which is Ex.PW3/A. After x-ray examination, all the injuries were found simple in nature.

Learned appellate Court while dismissing the appeal had further observed that it is neither alleged nor proved on the file that the investigating officer was having any enmity with the accused. Therefore, there was no reason for the investigating officer to falsely implicate the accused. Thus, the prosecution has duly proved on record that all the accused in furtherance of their common intention assaulted public servant Kuldeep Singh, J.E. and caused obstruction in discharge of his official duty and caused injuries on his person. The accused further damaged the public property of power grid and criminally intimidated the complainant.

It is in these circumstances the petitioners have approached this Court by filing the present revision petitions assailing their conviction.

Learned counsel for the petitioners has argued that apart from the fact that there is delay in lodging the FIR, possibility of formulating a concocted story is not ruled out. The alleged incident had occurred at 23.07.2012 at about 10.00 P.M., whereas the FIR was registered against the accused on 26.07.2012. Moreover, the police was informed on 23.07.2012 at about 10.00 P.M. As per the opinion Ex.PW4/B of the doctor, the complainant was fit to make the statement on 24.07.2012, but still his

statement was not recorded on that day. The delay in lodging the FIR doubts the very case of the prosecution.

He has further argued that no identification parade was ever conducted in the case. It is the case of the prosecution that there were 10-12 persons, who came to the power grid to assault the complainant. Therefore, in order to properly identify the accused, identification parade was necessary and without there being a proper test identification, the conviction of the petitioners cannot be recorded. Neither any independent witness was examined by the prosecution nor the case property was sealed. Moreover, complainant Kuldeep Singh, J.E. as PW1 and the sole eye-witness Angrej Singh, Assistant Lineman as PW5 did not support the prosecution case. In his cross-examination, PW1 Kuldeep Singh stated that 35-40 persons came in the Grid and blocked the main gate of the Grid. However, he does not know any person personally as they were never seen earlier. Again these persons came there and they were about 10-15 in number and the names of the accused were told by the police. He did not know the accused earlier. The police got his signatures after writing the names of any of the accused. Thus, the complainant has not named any accused. Similarly, PW5 Angrej Singh, who is sole eye-witness of the occurrence has deposed in his cross-examination that the accused did not cause any injury to complainant Kuldeep Singh, J.E. and he has seen the accused for the first time in the Court. Thus, this witness has not supported the prosecution version but still the petitioners have been convicted in the case.

On the other hand, learned State counsel has argued that apart from the fact that there is a limited scope of interference in the revision, learned trial Court as well as learned appellate Court rightly convicted the petitioners-accused as they were found indulged in causing injuries to complainant Kuldeep Singh. The accused caused obstruction in discharge of duties of the public servant. They also caused damage to the power grid, which is a public property and have also criminally intimidated the complainant.

I have heard learned counsel for the parties.

The allegations against the petitioners are that on 23.07.2012, they along with 10-15 other persons came in the Electricity Grid. Petitioner Lakhwinder Singh gave a Soti blow on the shoulder of the complainant, whereas petitioner Gurmit Singh son of Balwinder Singh gave a Soti blow on his left side above arm. When PW Angrej Singh tried to rescue the complainant from the accused, they also caused kick blows to Angrej Singh and caused damage to the Electricity Grid by dismantling the articles of the Grid. Besides this, they also criminally intimidated the complainant. The most important witnesses in the case were the complainant-injured Kuldeep Singh, J.E. (PW1) and the sole eye-witness Angrej Singh, Assistant Lineman (PW5).

This Court has perused the statement of Kuldeep Singh (PW1), who in his cross-examination has stated that on 23.07.2012, the accused along with many other persons came to the Power Grid and caused injuries to him and when Angrej Singh was trying to rescue him, he was also given beatings. Interestingly, no identification parade was got conducted in the case. It has

come in evidence that the complainant was posted in the Power Grid, Balluana for the last 6-7 years, but he did not know the name of any of the accused. Rather, he has deposed in his cross-examination that the names of the accused were told to him by the police and the police got his signatures after writing the names of the accused. The document Ex.PB i.e. complaint under Section 195 Cr.PC was never typed by him, rather, the police had taken his signatures on this document.

Similarly, the sole eye-witness Angrej Singh (PW5), who was also working with the complainant and was present at the time of occurrence has also not supported the prosecution version. In his cross-examination, he has stated that *“I do not identify the accused. They did not cause any injury to me or Kuldeep Singh JE. I have seen the accused for the first time in Court”*.

Thus, this Court finds that learned trial Court in para No.21 of the impugned judgment dated 13.09.2017 has recorded a wrong finding that the careful scrutiny of the evidence led by the prosecution clearly brings on record that testimony of the complainant has duly supported the case of the prosecution in all material aspects.

In the present case, complainant-injured Kuldeep Singh, J.E. (PW1) and Angrej Singh, Assistant Lineman (PW5), who is the sole eye-witness of the occurrence, have not supported the prosecution version. Both of them have deposed in their cross-examinations that they have seen the accused for the first time in the Court. Moreover, Dr. S.S. Romana, Medical Officer, Civil Hospital, Bathinda, while appearing in the witness box as PW2 has stated in his cross-examination that the injuries No.1 and 3 on the person

of Kuldeep Singh could be possible due to fall on a hard surface and injury No.2 is not on the vital part of the body of injured.

Therefore, this Court finds that the case of the prosecution is doubtful. Accordingly, the impugned judgment of conviction and order of sentence dated 13.09.2017 passed by learned trial Court and the impugned judgment dated 02.05.2018 passed by learned appellate Court are set aside. All the three petitioners are acquitted of the charges levelled against them by extending them the benefit of doubt. They be released forthwith, if not required in any other case. The amount of fine, if paid by the petitioners be refunded to them as per rules.

The revision petitions are, accordingly, allowed.

Photocopy of this order be placed on the files of other connected cases.

August 24, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No