

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

(1) CRA-D-334-DBA of 2004

State of Punjab

.... APPELLANT

Versus

Harinder Singh alias Pappu and others

..... RESPONDENTS

(2) CRR-461 of 2004

Rajwinder Singh alias Raja

.... PETITIONER

Versus

Harinder Singh alias Pappu and others

..... RESPONDENTS

Reserved on : 06.05.2019

Date of decision : 10.05.2019

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. S.P.S. Tinna, Addl. A.G., Punjab,
for the appellant in CRA-D-334-DBA of 2004.

Mr. P.S. Hundal, Senior Advocate, with
Mr. Jashandeep Singh, Advocate,
for the petitioner in CRR-461 of 2004.

None for the respondents.

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RAJIV SHARMA, J.

1. Since common questions of law and facts are involved in the instant appeal and criminal revision, therefore, these are taken up together

and being disposed of by a common judgment.

2. This appeal and criminal revision are directed against judgment dated 15.09.2003, rendered by learned Additional Sessions Judge, Moga, in Sessions Case No. 152 dated 18.09.2000, whereby respondents Harinder Singh alias Pappu, Kehar Singh, Joginder Singh alias Jinder, Hari Singh, Sukhdev Singh and Sukhwinder Singh alias Chhinder Singh, who were charged with and tried for the offences punishable under Sections 307/326/323/148/149 IPC, have been acquitted of the charges framed against them.

3. The case of the prosecution, in a nutshell, is that on 12.03.2000, message was received in Police Station, Mehna, from Police Station, City-II, Moga, regarding admission of Rajwinder alias Raja, Joginder Singh alias Kalu, Sukhdev Singh and Harjinder Singh, in Civil Hospital, Moga. ASI Santokh Singh went to Civil Hospital. Statement of Rajwinder Singh alias Raja was recorded vide Ex.PZ. According to him, on 11.03.2000 at 6.00 PM, he along with Joginder Singh alias Kalu, Harjinder Singh and Sukhdev Singh were coming back from their fields. When they reached near the fields of Bhagwan Singh, one killa ahead from the turning of the passage, Kehar Singh armed with *kirpan*, Banta Singh (now deceased) armed with *sota* and Pappu Singh armed with gun were standing there. Banta Singh raised *lalkara* that they should be killed. They should not be allowed to run away. Kehar Singh inflicted a *kirpan* blow, which hit on the back of his right hand. He fell down. He was also given more injuries by the other accused. Kehar Singh and other accused also caused injuries to Harjinder Singh, Joginder Singh and Sukhdev Singh. They raised alarm “Maar Ditta

Maar Ditta”. The accused ran away from the spot. FIR was registered and the matter was investigated. Challan was put up after completing all the codal formalities.

4. The prosecution examined a number of witnesses. The accused were also examined under Section 313 Cr.P.C. They also examined five witnesses in their defence. The respondents were acquitted of the charges framed against them. Hence, this appeal and criminal revision against their acquittal.

5. Learned State counsel and the learned counsel appearing on behalf of the petitioner (complainant) in criminal revision have vehemently argued that the prosecution has proved its case beyond reasonable doubt.

6. We have heard learned State counsel as well as learned counsel for the complainant and gone through the judgment and record very carefully.

7. PW.1 Dr. V.J.S. Dhillon admitted that the injuries on the persons of Rajwinder Singh alias Raja, Joginder Singh alias Kalu and Harjinder Singh were on the non-vital parts of the body. These were simple injuries in nature, except injury No.3 on the person of Rajwinder Singh alias Raja. These were caused with blunt weapon. DW.3 Dr. Sadhu Ram Mittal conducted post mortem on the dead body of Banta Singh. He had noticed as many as 19 injuries on the person of deceased Banta Singh. The blood stained earth was collected from the house of Pal Singh. There is delay of 17 hours in lodging the FIR. The incident had taken place allegedly on 11.03.2000 at 6.00 PM. However, the statement of Rajwinder Singh alias Raja was recorded on 12.03.2000 at 11.00 AM. Copy of the FIR reached the

Illaqa Magistrate on 13.03.2000 at 1.30 PM, i.e. after about 44 hours of the alleged occurrence. Thus, there is inordinate delay, which has not been explained. It has come on record that the present FIR was registered as a counter-blast to the FIR got registered by the accused with regard to murder of Banta Singh. The witnesses have also admitted that they had caused injuries to the accused in their self defence. The complaint was lodged by Rajwinder Singh alias Raja. However, he has not been produced as a witness.

8. In view of the above discussion, the prosecution has failed to prove its case against the accused beyond reasonable doubt. Thus, there is no occasion for us to interfere with the well reasoned judgment of the trial court. Accordingly, there is no merit in the instant appeal and criminal revision. The impugned judgment of the trial court is upheld. The appeal and criminal revision are dismissed.

(RAJIV SHARMA)
JUDGE

May 10, 2019
ndj

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No