

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

CRA-512-DBA of 2004

Reserved on : 01.05.2019

Date of decision : 07.05.2019

Mangal Singh

.... APPELLANT

Versus

Baljinder Singh and another

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. J.S. Bhatia, Advocate,
for the appellant.

None for the respondents.

* * *

RAJIV SHARMA, J.

1. This appeal is instituted against judgment dated 18.10.2003, rendered by learned Sessions Judge, Ferozepur, in Sessions Trial No. 45 of 2003.

2. In a private complaint, filed by appellant Mangal Singh before the trial court, respondents Baljinder Singh and Simarpal Singh were charged with and tried for the offences punishable under Sections 304-A/323/34 IPC. They were acquitted of the charge framed against them.

3. According to the averments made in the complaint, Mangal

Singh had three sons, namely Gurcharan Singh, Resham Singh and Jugraj Singh. His son Jugraj Singh was residing with him at village Ratta Khera Baja Kotwal. On 10.11.2000, at about 07.00 AM, he had gone to answer the call of nature. On the way, on the bank of canal minor, Baljinder Singh, Simarpal Singh, Thakar Singh and Karnail Singh waylaid him. They had the intention to kill him. They grappled with him. In the meantime, Simarpal Singh, who was holding a double barrel licensed gun in his hand, inflicted blow with the '*Butt*' of his gun on the forehead of the complainant. The complainant sustained injury. In this process, the gun went off accidentally and the gun shot hit on the back side of right shoulder of Karnail Singh, who was standing with his back towards the complainant. All the accused ran away from the spot. Though the police recorded statement of the complainant, but did not take any action against the accused. Hence, the complainant filed a private complaint.

4. The complainant examined as many as five witnesses. The accused were also examined under Section 313 Cr.P.C. They denied the case of the prosecution. According to them, they were falsely implicated. The respondents were acquitted. Hence, this appeal.

5. Learned counsel appearing on behalf of the appellant has vehemently argued that his client has proved the case beyond reasonable doubt and the trial court has erred in acquitting the respondents.

6. We have heard learned counsel for the appellant and gone through the judgment and record very carefully.

7. PW.1 Dr. M.M. Singh Dhillon medico legally examined Mangal Singh on 10.11.2000 at 10.05 AM. He noticed the following

injuries on his person :-

- (1) Curved lacerated wound 3 cm x 0.75 cm on the right side of the fore-head. Wound was just above the medial aspect of the right eye brow i.e. above 2.5 cm. Wound was bone deep. Fresh bleeding was present. X-ray was advised.
- (2) Superficial lacerated wound 1.25 cm x 0.5 cm on the root of the bridge of the nose. Fresh bleeding was present. Local tenderness was present. X-ray was advised.

Both the injuries were caused within six hours of medical examination of the injured. The injuries were declared simple in nature, after receipt of X-ray report.

8. PW.2 Dr. Baldev Raj Arora conducted post mortem examination on the dead body of Karnail Singh.

9. Mangal Singh complainant appeared as PW.3. He testified that on 10.11.2000 at about 7.00 AM, he was going to answer the call of nature. Baljinder Singh, Simarpal Singh, Thakar Singh and Karnail Singh attacked him with intention to kill him. Simarpal Singh was carrying a .12 bore licenced gun in his hands. He gave a '*Butt*' blow on his forehead. The gun went off accidentally. The fire hit Karnail Singh near right shoulder. The accused escaped from the spot. Karnail Singh died on the spot. The occurrence was witnessed by Kashmir Singh, Major Singh of his village and his daughter-in-law Manjit Kaur. Manjit Kaur took him to PHC Ferozeshah. His statement was recorded by the police. The police did not take any action against the accused. He filed private complaint after coming out of the judicial custody.

10. PW.4 Manjit Kaur deposed that on 10.11.2000 at about 7.00

AM, her father-in-law had gone to answer the call of nature. Baljinder Singh, Simarpal Singh, Karnail Singh and Thakar Singh had attacked her father-in-law. Simarpal Singh gave a '*Butt*' blow on the forehead of her father-in-law. The gun went off accidentally. The gun shot hit Karnail Singh on his shoulder.

11. It will be pertinent to mention at this stage that with regard to the aforesaid incident, FIR No. 177 dated 10.11.2000 under Section 302/34 IPC was registered against Mangal Singh and Jugraj Singh.

12. The learned trial court has come to the right conclusion that Mangal Singh had filed the complaint to take defence in FIR No. 177 dated 10.11.2000, registered against him and his son Jugraj Singh. The plea taken by him during trial in FIR No. 177 dated 10.11.2000 was that he was hit on head by Karnail Singh with brick bat. The injuries received by complainant Mangal Singh were simple in nature, as per statement of PW.1 Dr. M.M. Singh Dhillon. In his cross-examination, PW.1 Dr. M.M. Singh Dhillon stated that injuries on the person of Mangal Singh could be the result of brick bat blows. There is no merit in the plea of appellant Mangal Singh that the gun of Simarpal Singh went off accidentally, when it struck on the forehead of Mangal Singh, and the gun shot ultimately hit Karnail Singh. There is no evidence that Simarpal Singh possessed any licensed gun. The gun shot could not be fired without pressing trigger of the gun. The appellant was released by the police in the evening on 09.11.2000 and his son Jugraj Singh was released on the same night at about 12.00/1.00 AM. The incident took place on 10.11.2000 at about 7.00 AM.

13. In view of the above discussion, 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 the same is dismissed.

(**RAJIV SHARMA**)
JUDGE

May 07, 2019
ndj

(**AVNEESH JHINGAN**)
JUDGE

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