

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRA-S-652-SB-2004  
Decided on: 07.01.2019

Jagdish Kumar @ Laddu .... Appellant

Versus

State of Punjab ..... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. D.S. Sandhu, Advocate  
for the appellant.  
  
Mr. Pankaj Gupta, Addl. A.G. Punjab.

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MANJARI NEHRU KAUL, J.

The instant appeal has been filed by the accused-appellant Jagdish Kumar @ Laddu against the impugned judgment dated 10.01.2013 passed by the learned Sessions Judge, Kapurthala vide which he was convicted and sentenced as under:-

|               |                                                                                                                                                                                               |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| U/s 450 IPC : | To undergo rigorous imprisonment for a period of 4 years and to pay a fine of Rs.5,000/- or in default of payment of fine, to undergo further rigorous imprisonment for a period of 6 months. |
| U/s 326 IPC : | To undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.5,000/- or in default of payment of fine, to undergo further rigorous imprisonment for a period of 6 months  |
| U/s 324 IPC : | To undergo rigorous imprisonment for a period of 2 years.                                                                                                                                     |
| U/s 323 IPC : | To undergo rigorous imprisonment for a period of 6 months.                                                                                                                                    |

2. Briefly stated, the prosecution story is that on the intervening night of 22.07.1997 and 23.07.1997, injured Manoj Kumar while sleeping on the roof

of his house, was inflicted blows with sharp edged weapon on the rear side of his neck and right cheek by an assaulter. On infliction of the said injuries when he was awakened, he saw accused-appellant Jagdish Kumar @ Laddu standing besides him with a kohari. The appellant then inflicted one more blow of kohari which hit on the back side of the neck of Manoj Kumar. On hue and cry being raised by Manoj Kumar, his mother, who was nearby, was awakened. In the meanwhile, the appellant after throwing the kohari, fled from the spot. Injured Manoj was removed to the local hospital by his relatives soon thereafter and later on he was referred to DMC Hospital, Ludhiana. The motive behind this occurrence was that about 6 months' prior to this occurrence, there had been an altercation between the uncle of injured Manoj Kumar and the appellant. The appellant had since then been nursing a grudge against the complainant party. Since the injured Manoj was declared unfit to make a statement by the attending doctor, his statement could be recorded on 27.07.1997, wherein he gave the aforesaid detailed account.

3. The prosecution in support of its case relied primarily on the evidence of PW-1 Dr. Sanjeev Uppal, PW-2 Manoj Kumar (complainant) PW-3 Dr. Prabhdeep Singh Nain, PW-4 Dr. Kailash Kapur, PW-5 Roshan Lal and PW-6 SI Ranjit Singh.

4. The prosecution case was put to the accused-appellant and his statement was recorded under Section 313 of Code of Criminal Procedure. The accused-appellant denied the allegations levelled against him and pleaded false implication.

5. In defence, the appellant-accused examined DW-1 and C-1 Baljit Singh.

6. The trial Court relying on the evidence of the prosecution witnesses convicted and sentenced the accused-appellant as already mentioned above.

7. I have heard learned counsel for the appellant and learned State counsel besides going through the record.

8. Learned counsel for the appellant vehemently urged that the learned trial Court was in error in not appreciating that there was an unexplained delay in lodging of the instant FIR and for which the benefit of doubt should have gone to the accused-appellant as the delay was used to fabricate a false version against the accused-appellant.

9. I have given my anxious consideration to the same but I am unable to agree to the submissions of the learned counsel for the appellant as it has come in the testimony of PW-4 Dr. Kailash Kapur, Medical Officer, Civil Hospital, Phagwara that on 23.07.1997, injured Manoj Kumar PW-2 was medically examined by him and after giving the necessary emergency treatment, he was referred to Civil Hospital, Ludhiana for further management. Not only this, this witness has further stated that vide Ex. PH (reference chit), he had passed on the information about injured Manoj Kumar having been brought to Civil Hospital, Phagwara to SHO Police Station, Sardar, Phagwara. It would be pertinent to mention that Ex. PH bears the signature of PW-4 Dr. Kailash Kapur which he duly identified when he stepped into the witness box at the time of trial.

10. PW-6 SI Ranjit Singh has further corroborated the testimony of PW-4 Dr. Kailash Kapur that on receipt of Ex. PH i.e. reference chit, he reached the Civil Hospital, Ludhiana. Since the injured PW-2 Manoj Kumar was not found admitted there, PW-6 SI Ranjit Singh alongwith other police officials then went to DMC Ludhiana, where injured Manoj Kumar was found admitted. On reaching DMC, Ludhiana, PW-6 SI Ranjit Singh moved an application (Ex. PG)

to the Medical Officer, DMC Ludhiana qua the fitness of injured Manoj Kumar, but the doctor vide his endorsement Ex.PG/1 declared injured Manoj Kumar unfit to make a statement as he had been operated upon and was unconscious. Finally, it was only on 26.07.1997 vide Ex. PF/1 the doctor declared injured Manoj Kumar fit to make a statement which led to the registration of a formal FIR (Ex. PB/3) against the accused-appellant. Hence, the delay in the registration of the FIR stands fully explained for which the accused-appellant cannot claim any benefit.

11. Learned counsel for the appellant has also laid a challenge that the learned trial Court erred in basing the conviction of the accused-appellant on the uncorroborated testimony of complainant i.e. injured Manoj Kumar PW-2. He further argued that the learned trial Court failed to take into account that the parents of the injured Manoj Kumar, who were present at the time of occurrence and were eye witnesses to the same were not even examined by the prosecution.

12. In my considered opinion, the non-examination of the parents of the complainant cannot be said to adversely affect the case of the prosecution. It is not the quantity, but the quality of the evidence which matters and has to be appreciated. It would not be out of place to notice that PW-2 injured complainant-Manoj Kumar corroborated the case of the prosecution on all material facts. While appearing as PW-2, the complainant-Manoj Kumar gave a detailed and vivid account of the entire occurrence. Even though he was examined in the Court after a gap of 3 years of the occurrence, yet his testimony does not reflect any major contradictions which would cast a shadow of doubt on the prosecution case. Further the injuries suffered by the injured complainant PW-2 Manoj Kumar were of grievous in nature and could not have been by any stretch of imagination be said to have been self inflicted. A suggestion was given

to PW-4 Dr. Kailash Kapur if the injuries could have been suffered by friendly hands to which PW-4 Dr. Kailash Kapur replied in the negative.

13. Learned counsel for the appellant further argued that the weapon of offence i.e. Kohari was not produced during the trial and the same was not even sent to the chemical examiner. I have considered this submission of the learned counsel for the appellant as well. At best, the non-sending of Kohari to the chemical examiner is a lapse on the part of the investigating agency, for which the complainant party cannot be made to suffer. Hence, it cannot be said to adversely affect the case of the prosecution.

14. In the circumstances as discussed above, I do not find any infirmity in the approach of the learned trial Court in recording a finding of conviction.

15. Accordingly, the present appeal is dismissed and the impugned judgment and order of sentence passed by the trial Court is maintained.

**07.01.2019**  
Dinesh

**( MANJARI NEHRU KAUL )**  
**JUDGE**

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No