

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-D-277-DBA-2003 (O/M)

Reserved on : 15.2.2019

Date of decision : 21.2.2019

Darshan Singh

..... Appellant

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Narinder Singh, Advocate,
for appellant.
Mr. S.P.S. Tinna, Additional A.G. Punjab.
Mr. Mohit Garg, Advocate,
for respondents No. 2 to 8.
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KULDIP SINGH, J.

Darshan Singh (complainant) has filed this appeal against judgment dated 25.11.2002, passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Sangrur, vide which his complaint case was dismissed and accused were acquitted of charges framed against them.

Brife facts of case are that Darshan Singh (complainant) had filed a criminal complaint against accused under Sections 307, 325, 342, 323, 148 IPC read with Section 149 IPC, in which he alleged that Bachan Singh (injured) is his brother and Vice President of Gurudwara Sahib Committee, Haripura Basti, Sangrur. The Gurudwara owns 8/10 shops which were rented out to different persons. Rajwinder Singh (accused) got a shop from one Gogi, tenant of Gurudwara Committee. The Gurudwara Committee got vacated said shop from Rajwinder Singh (accused). On 19.1.2000, at about 7.30/8.00 AM, Darshan Singh (complainant) alongwith Bachan Singh, Rajwinder Singh and Raju was going to City Sangrur. When they reached in front of

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Hanuman Temple, all accused accosted them. Sukhraj Singh alias Soni (accused) raised exhortation that Bachan Singh should not be allowed to go and be killed. Sukhraj Singh alias Soni grappled with Bachan Singh. Accused Gurcharan Singh gave a gandasa blow from its reverse side which hit the right side of head of Bachan Singh. Accused Surjit Singh gave a gandasa blow from its reverse side which hit left side of head of Bachan Singh. Rajwinder Singh (accused) gave a gandasa blow from its reverse side on back side of head of Bachan Singh and Avtar Singh (accused) gave a takua blow on the right leg of Bachan Singh. Accused Gurraj Singh and Sawraj Singh gave iron rod blow each on right arm of Bachan Singh. Complainant Darshan Singh and Rajwinder Singh raised alarm, on which all accused ran away. It was further alleged that on receipt of injuries, Bachan Singh had fallen on ground and his gun went off accidentally. Bachan Singh (injured) was removed to hospital, where he was medico legally examined. It is further alleged that police connived with accused and did not register the case. Hence, this complaint.

After recording preliminary evidence, accused were summoned and committed to face trial. Accused were chargesheeted under Sections 307, 325, 323 IPC read with Section 149 IPC and Section 148 IPC, to which they pleaded not guilty. Thereafter, complainant led his evidence. When evidence led by prosecution was put to accused, accused Gurcharan Singh and Sukhraj Singh claimed that they were not present at the time of occurrence, whereas accused Surjit Singh, Avtar Singh, Rajwinder Singh, Gurraj Singh and Sawraj Singh claimed that on 19.1.2000, at about 7.00 AM, they were present on floor mill where Bachan Singh came and asked them about accounts of Akhand Path, upon which Gurraj Singh told he

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would furnish the accounts in the presence of members of Gurudwara Committee, whereupon Bachan Singh ran towards his house and came out with a single barrel gun and fired. The splinters hit Surjit Singh and Avtar Singh. Bachan Singh also gave a blow of butt of gun to Gurraj Singh. Accused also led defence evidence.

After hearing prosecution, assisted by counsel for complainant, counsel for accused and going through evidence, learned Additional Sessions Judge (Adhoc), Fast Track Court, Sangrur, acquitted all accused.

We have heard learned counsel for appellant, learned State counsel, learned counsel for respondents No. 2 to 8 and have also carefully gone through file.

The version of complainant has been reproduced above. In this case, both parties received injuries. It is necessary to reproduce injuries received by Bachan Singh (injured). Bachan Singh was medically examined by Dr. Jaspal Singh (PW4) who deposed that on 19.1.2000, when he examined Bachan Singh, he found following injuries on his person :-

- '1. Lacerated wound 6 cm x 1.5 cm bone deep lying obliquely on the left frontal area of skull 15 cm from hair line. Fresh bleeding was present. X-ray was advised.
2. Lacerated wound 2.5 cm x 1 cm lying obliquely in line of injury No. 1 with difference of 2 cm. X-ray was advised.
3. Lacerated wound 4 cm x 1.5 cm x bone deep lying obliquely on right side of occipital area of skull, 4 cm from injury No. 1. X-ray was advised.
4. Lacerated wound 8 cm x 1.5 cm lying horizontally on the anterior aspect of right leg 20 cm below knee. X-ray was advised.
5. Lacerated wound 1 cm x 1.5 cm, 2 cm below injury No. 4.
- 6.

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6. Lacerated wound 1.5 cm x 1 cm, on the anterior aspect of on the middle of left leg.'

All injuries were caused with blunt weapon and were caused within 6 hours.

Dr. Parbhat Kumar (DW2) stated that he medically examined Surjit Singh (accused) on 19.1.2000, at 8.40 AM and found following injuries on his person :-

'1. Multiple lacerated wound .2 cm x .3 cm in diameter on front medial and lateral aspect of right thigh inguinal and right lower part of abdomen and scrotum with clotted and fresh blood was present. X-ray was advised and injury was referred to Surgeon.

2. Lacerated wound .2 cm in diameter on the lateral part of right palm with clotted and fresh blood. X-ray was advised.

General patient of injured was follows :

Pulse was 92 per minute. BP was 142/94 mm, he was conscious. Surgeon was called immediately. Injured was shown to the Surgeon.'

Dr. Parbhat Kumar (DW2) also examined Avtar Singh (accused) and found following injuries on his person :-

'1. Multiple lacerated wound 0.2 cm in diameter on front lateral and interior medial aspect of left leg and left ankle, 16 inches in length with clotted and fresh blood, x-ray was advised and injured was referred to Surgeon.'

Injuries were found within 6 hours and were caused with blunt/firearm.

Dr. Parbhat Kumar (DW2) also medically examined Gurraj Singh (accused) and found following injuries on his person :-

'1. Reddish swelling and contusion 11 cm x 5 cm on the postero-lateral aspect of middle of right arm. X-ray was advised.'

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When the version of complainant is corroborated with medical evidence, it comes out that no injury was attributed to Sukhraj Singh. Injuries attributed to Gurraj Singh and Sawraj Singh on the right arm with iron rod are not found in MLR. Avtar Singh is alleged to have given takua blow on the right leg of injured Bachan Singh, whereas on right leg, two lacerated wounds were found. Takua blow is likely to cause incised wound. Out of first three injuries, two are on the left side of head and third injury is on the right side of head. However, injury attributed to accused Rajwinder Singh on the back side of head of injured Bachan Singh with gandasas blow is not there. The injury on the head of injured was found to be grievous being fracture.

The trial Court took into consideration that there is delay of 53 days in filing the complaint. There was nothing to stop complainant Darshan Singh from approaching higher authorities when police allegedly did not take action. Therefore, probably, complainant filed complaint after Bachan Singh (injured) was booked for causing gun shot injuries to accused Surjit Singh and Avtar Singh and blunt injury to accused Gurraj Singh. The injuries on the person of accused Surjit Singh shows that these are multiple lacerated wounds caused with gun shot on the right thigh and right lower part of abdomen and on right palm. The gun shot injuries on the person of accused Avtar Singh are on right leg and left ankle.

Now, the question would arise whether Surjit Singh and Avtar Singh (accused) could give injury on the head of Bachan Singh after having received gun shot injuries? We find that it is doubtful. After having received gun shot injuries in the thigh and right lower part of abdomen, accused Surjit Singh is likely to be in shock and will not be in a position to

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give head injury on the person of Bachan Singh. On the other hand, Bachan Singh, after receiving head injury, as stated by him, will not be in a position to fire the gun. One thing is clear that Bachan Singh was carrying a gun at the time of occurrence. He was Vice President of the Gurudwara Committee and at 7.00 AM in the month of January, he was not supposed to carry gun. Therefore, possibility is that it was Bachan Singh who fired gun shot and thereafter he was given injuries by other persons, other than injured. In these circumstances, inflicting of injuries by co accused are likely to be in self defence. However, the trial Court has rightly concluded that in addition to delay of 53 days, the injuries are not corroborated by medical evidence. During statement in Court, Darshan Singh had stated that injuries were given with gandasas blows which means that these were given with sharp side which could result in incised wound. Further, the trial Court has rightly observed that prosecution has suppressed the genesis of occurrence. The prosecution has not explained the gun shot injuries on the person of Surjit Singh and Avtar Singh and injury on the person of Gurraj Singh.

Therefore, we are of the view that trial Court has taken one of two possible views and has rightly granted benefit of doubt to accused and acquitted them of charges framed against them. Consequently, we find no force in the appeal and same is accordingly dismissed.

(RAJIV SHARMA)
JUDGE

(KULDIP SINGH)
JUDGE

21.2.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No

SANJIV KUMAR SHARMA
2019.02.21 15:32
I attest to the accuracy and
authenticity of this document