

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Appeal No.S-3089-SB of 2014 (O&M)

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Date of decision:11.02.2019

Gurbux Singh

...Appellant

v.

State of Punjab and others

...Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Nakul Sharma, Advocate for the appellant.

Ms. Monika Jalota, Deputy Advocate General, Punjab for the respondent-State.

None for respondents No.2 and 3.

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Inderjit Singh, J.

The appellant-complainant has filed this appeal against State of Punjab, Harjinder Singh and Parminder Singh-respondents challenging the impugned judgment dated 1.5.2014 passed by learned Sessions Judge, Ferozepur, vide which accused-Harjinder Singh and Parminder Singh have been acquitted of the charges levelled against them, whereas Gurdial Singh-accused has been held guilty and convicted and sentenced for the offence under Section 308 IPC. The complainant has filed the appeal against accused Harjinder Singh and Parminder Singh, who have been acquitted.

A perusal of record shows that challan was presented against

accused-Gurdial Singh, Harjinder Singh and Parminder Singh for the offences under Sections 308, 323 read with Section 34 IPC in FIR No.131 dated 19.7.2011 registered for the offences under Sections 308, 323 read with Section 34 IPC at Police Station Guru Har Sahai. The brief facts of the case as noted down by the learned Sessions Judge, Ferozepur, in his judgment dated 1.5.2014 are as under:-

“The facts as put forth by the prosecution are to the effect that on 26.06.2011, a telephonic message was received at Police Station Guru Har Sahai from PGI Chandigarh with regard to the admission of Gurbux Singh son of Jagir Singh complainant on account of injuries suffered by him. Accordingly, ASI Pawan Kumar along with fellow police officials came to PGI Chandigarh. The opinion of the doctor was sought, who declared the complainant fit to make statement. A verbal query was raised with regard to MLR/MLC of the patient. The doctor informed that as the patient was referred, the MLC has not been issued and the MLR may be procured from Guru Gobind Singh Medical College and Hospital, Faridkot. On 27.06.2011, the Investigating Officer had recorded the statement of the complainant wherein, it has been alleged that he is 70 years of age and working as an agriculturist. He is owner of 15 acres of land and has two sons namely Manjit Singh and Surjit Singh. On 25.06.2011, the complainant along with his son Manjit Singh were returning back to their house on their tractor after sowing paddy crop. At about 10.30 PM (later on, the time of

occurrence has been mentioned as 7.30 PM in the supplementary statement). The complainant and his son reached at the turn of the street leading to their house. The electric lights outside the Gurudwara and houses were on at that time. Gurdial Singh accused is the younger brother of the complainant. Gurdial Singh armed with Bala, Harjinder Singh accused armed with Gandasa and Parminder Singh accused empty handed were present at the spot. Parminder Singh exhorted the accused and stated that the complainant should be caught and taught a lesson, for not permitting them to instal a gate in the street. Manjit Singh who was the driver of the tractor stopped the same. Gurdial Singh accused inflicted two Bala blows on the head of the complainant and he started bleeding. Harjinder Singh and Parminder Singh inflicted injuries without any visible mark on the person of Manjit Singh. Harjinder Singh accused also inflicted fist blows on the left eye of the complainant. An alarm was raised and the family members from the house rushed to the spot. Veeran, the daughter and Paramjit Kaur, the daughter in law of the complainant arrived at the spot and saw the occurrence. People were attracted at the spot and the assailants slipped away from the spot along with their weapons. It has been alleged that a street leads to the house of the complainant and the house of Gurdial Singh accused is on both sides of the street at its beginning. About two months prior to the occurrence, Gurdial

Singh accused intended to instal a gate by raising pillars and the complainant had asked him to refrain from doing so. With the intervention of the panchayat, the pillars were demolished. Manjit Singh and Kuljit Singh, the members of panchayat, after making arrangement for a vehicle, took the injured to Civil Hospital, Guru Har Sahai, from where he was referred to GGS Medical College and Hospital, Faridkot and from there, he was referred to PGI Chandigarh. As the MLC was to be procured from GGS Medical College and Hospital, Faridkot, further proceedings were to be initiated on the receipt thereof.”

On presentation of challan, the trial Court finding *prima facie* case against accused-Gurdial Singh, framed charges for the offences under Sections 308 and 323 IPC, to which he pleaded not guilty and claimed trial.

During the course of trial, other accused Harjinder Singh and Parminder Singh were summoned under Section 319 Cr.P.C. They were also charge-sheeted for the offences under Sections 308 and 323 read with Section 34 IPC.

The learned Sessions Judge, Ferozepur vide impugned judgment dated 1.5.2014 only convicted and sentenced accused Gurdial Singh and acquitted Harjinder Singh and Parminder Singh. Aggrieved from the judgment of acquittal of accused Harjinder Singh and Parminder Singh, the present appeal has been filed.

Notice of motion was issued.

Ms. Monika Jalota, learned Deputy Advocate General, Punjab

has put in appearance on behalf of the respondent-State and contested this

appeal. No one appeared on behalf of respondents No.2 and 3 despite service.

I have heard learned counsel for the appellant as well as learned State counsel and have gone through the record.

A perusal of the record shows that first of all during investigation present respondents No.2 and 3 Harjinder Singh and Parminder Singh have been found innocent. They have been summoned under Section 319 Cr.P.C. by the Court. A perusal of the record shows that the occurrence is of 25.6.2011, but the FIR was registered on 19.7.2011. This inordinate delay has not been explained by the prosecution by giving satisfactory explanation. It is settled law that delay in registration of the FIR is not fatal to the case but in case of unexplained delay, the Court is to appreciate the evidence cautiously and carefully to find out whether any other person has been falsely implicated and has concocted the version. In the present case, Harjinder Singh and Parminder Singh are stated to have inflicted injuries without any visible mark on the person of Manjit Singh. Manjit Singh has not been medico-legally examined. Therefore, a reasonable doubt exists regarding the fact whether Manjit Singh has suffered any injury or not. Furthermore, Parminder Singh is stated to be empty handed whereas Harjinder Singh is stated to be armed with Gandasa, but there is no injury to anybody with sharp edged weapon which further creates doubt in the prosecution version qua the present respondents Harjinder Singh and Parminder Singh. Furthermore, Manjit Singh is stated to be eye witness of the occurrence. If the injured remained admitted in

attempt was made by him to get registered the FIR and it creates further doubt in the prosecution version qua the implication of these two respondents-accused Harjinder Singh and Parminder Singh. Manjit Singh is the son of complainant Gurbux Singh. Furthermore, one more injury has been attributed by fist blow on the left eye of the complainant to Harjinder Singh.

Keeping in view the findings given by the learned trial Court, I find that, in no way, the findings can be held as perverse. The findings have been given after appreciating the evidence in right and proper perspective. The findings are as per evidence and law and do not require any interference from this Court and the same are upheld qua Harjinder Singh and Parminder Singh. Harjinder Singh and Parminder Singh have been rightly acquitted by the learned trial Court.

From the above discussion, I do not find any ground in this appeal. Therefore, finding no merit in this appeal against the acquittal of Harjinder Singh and Parminder Singh to set aside the impugned judgment, the same is dismissed.

However, it is made clear that whatever stated above, in no way, will constitute my opinion and will affect the appeal of the other co-accused against his conviction and sentence that is to be seen independently.

February 11, 2019.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No