

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-A-1260-MA-2016
Date of Decision: 27.08.2019

Sandeep

...Appellant

Versus

State of Haryana and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.V.K.Sheoran, Advocate for the appellant.

ANIL KSHETARPAL, J.

Leave to appeal has been sought against the judgment of acquittal dated 12.05.2016 passed by the learned Additional Sessions Judge, Bhiwani in Sessions Case No.37 of 2014 arising from FIR No.14 dated 7.2.2014 under Sections 311, 342, 323, 143, 365 and 367 IPC registered at Police Station Behal.

This Court has heard the learned counsel for the appellant at length and with his able assistance gone through the judgment passed by learned Additional Sessions Judge.

Learned counsel for the appellant submitted that there are specific allegations in the FIR, which are proved by the evidence of first informant/appellant-Sandeep (PW-1), Dr. Umed Singh (PW-9) and Dr.Jagdev Singh (PW-12). He, hence, submitted that the Court has erred in ordering acquittal.

In the present case, as per the case of the prosecution, appellant Sandeep had gone to attend the hearing of his case at Siwani Court on 03.02.2014 on his motorcycle. While he was coming back and had reached

Behal Town situated on Rajgarh Road, Rajesh alias Motiya son of Arjun Ram, Rakesh son of Maan Singh and Rajpal son of Mukhtiar came in one DI Jeep, whereas in another vehicle Scorpio driven by an unidentified driver also came on the spot in which Kapil and Brahman were travelling. DI Jeep hit the motorcycle of the appellant. He alighted from the motorcycle in order to save himself. All the accused chased, picked and pulled him inside the DI Jeep. Whereafter they took Sandeep to the fields of Rajesh Kumar @ Motiya, where he was given beatings with iron pipe and thereafter he was again put in Jeep and threw near Toll Plaza of Village Sudhiwas. One or two passersby stopped and one of them provided his mobile phone on which he spoke to his uncle Satbir and thereafter Satbir along with Ramesh Kumar and Sanjay took him to his village Khairu-Badi. Thereafter his cousin Rinku and Vijay residents of village Khairu-Badi brought him for treatment to Rajgarh Hospital, where his wife and mother also reached. It was also alleged that some boys of village Sudhiwas came to his house after he left the house and fired gun shots in order to kidnap his wife Suman. However, Suman jumped from the roof and saved herself. HC Sumer Singh, Police Station Hamirwas (Rajasthan) also noticed that both the legs of Sandeep were under temporary plaster and he was having injury on his left eye.

Initially Zero FIR was registered by Police Station Hamirwas on 06.02.2014 and thereafter it was forwarded to Police Station Behal, where FIR No.14 dated 07.02.2014 was registered.

Prosecution in order to prove its case examined as many as 15 witnesses and produced large number of documents.

Learned Additional Sessions Judge, after thoroughly discussing the evidence, came to the conclusion that the prosecution has failed to bring

home the guilt of the accused beyond reasonable shadow of doubt. The judgment passed by the learned Additional Sessions Judge is elaborate and all the material evidence has been discussed.

It has been held that when the statement of injured Sandeep-appellant Ex.PA at the time of registration of the FIR and his statement recorded before the Court are compared, it is found to be having material contradictions/improvements and therefore, his evidence was found unreliable and untrustworthy. It may be noted here that appellant had stated in his statement Ex.PA before the police that DI Jeep hit his motorcycle. However, when he was examined as PW-1 in Court, he stated that the accused parked their vehicles in front of his motorcycle. The allegation of hitting the motorcycle with DI Jeep is missing. Still further, in the statement before the police, Ex.PA, he nowhere stated that he ran and entered into a house where 4-5 ladies were present and he was given beating in the aforesaid house. But when he appeared in Court, he made statement to that effect. He further admitted that he does not know how to drive a vehicle and he does not have any driving licence. He, however, refuted the suggestion that he sustained injuries on account of falling from the motorcycle. It may be noted here that complainant as per his statement Ex.PA and in the Court has stated that he was coming back while driving a motorcycle from Siwani Court when the incident took place. Once he does not know how to drive a vehicle, it is only matter of imagination as to how he was driving the motorcycle.

It has also come in evidence that the appellant is involved in various criminal cases including a case of murder. It is the allegation of the appellant that his father was killed by the accused in which they were

convicted. Obviously the motive for false implication is available.

Still further, the place of occurrence is 300 meter away from Police Station Behal which falls in the State of Haryana. However, Zero FIR was got registered at Police Station Hamirwas (Rajasthan). It may be noted here that as per the case of the prosecution, appellant/injured was first taken to village Khairu-Badi which is more than 20 kms from the place of occurrence and thereafter he was taken to B.D.K.Hospital, Jhunjhunu (Rajasthan). Even it has not been proved that the X-ray report belongs to the petitioner, because he has been shown to be a resident of a different village.

Still further, the court has noticed that with regard to allegation of firing at his house in absence of the appellant, the police found that the complaint made by him to be false. The prosecution has examined Sanjay Kumar and Ramesh Kumar as PW-10 and PW-11, who did not support the prosecution case. Prosecution has failed to examine Rinku and Vijay, who allegedly shifted the appellant to the hospital. Further Suman and Saroj, wife and the mother of the appellant, have also not been examined. The statement of PW-4 Satbir Singh, uncle of the appellant, is also inconsistent and full of discrepancies, and therefore, found to be untrustworthy.

In view of the detailed reasons recorded by the learned trial Court, the argument of learned counsel for the appellant is to be appreciated. Once, the statement of the appellant-injured has been found to be full of contradictions, discrepancies and improvements, therefore, this Court does not find any good ground to grant leave to appeal. The jurisdiction of the Court, while entertaining leave to appeal against the judgment of acquittal is limited. Contention of learned counsel for the

appellant is found to be without substance. Hence, the leave to appeal is declined and the present application is dismissed, accordingly.

27.08.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No