

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

CRA-S-40-SBA of 2003 (O&M)

Reserved on : May 06, 2019

Date of Decision: May 24, 2019

Chet Ram

...Appellant

Versus

Raghunandan and Ors.

...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. T.S Sangha, Sr. Advocate with
Mr. Narinder Singh the complainant - appellant.

Leave qua respondent Nos.1, 6 and 9 to 11
declined vide order dated 19.12.2002.

Mr.Deepender Singh, Advocate and
Mr.Ram Krishan Rana, Advocate
for respondent Nos.2, 4 & 5.

Mr. Ashok Kaushik, Advocate
for respondent No.3.

Respondent Nos.7 and 8 since died.

Mr. Vishal Garg, Additional AG, Haryana
for respondent No.12.

HARINDER SINGH SIDHU, J.

This appeal is instituted against the judgment and order dated 15.4.2002 rendered by the Additional Sessions Judge – Fast Track Court-II, Faridabad whereby respondents No.1 to 11, who were charged with and tried for offence punishable under Sections 148, 323, 325, 506 of the Indian Penal Code (in short 'IPC'), have been acquitted.

2. Leave to appeal qua respondents No.2 to 5, 7, 8 namely Ram

Kumar, Ram Babu, Ramesh, Dhanshi, Shobha Ram and Sri Ram was granted. Leave to appeal qua respondents No.1, 6 and 9 to 11 namely Raghunandan, Devi, Moola, Bhudev and Rishi was declined vide order dated 19.12.2002.

3. The appellant had filed complaint under Section 323, 325, 506, 148, 149 against the respondents with the allegation that he is resident of village Khambi. He had taken 10 acres of land of the Gram Panchayat on lease in the year 1993 for a period of five years. He had paid the lease money to the Gram Panchayat which had handed over the possession of the land to him. The land was earlier owned by *Jumla Mustarka Malkan*. He had spent almost Rs.2,50,000/- to improve the land. On 5.6.1995 he was returning after ploughing the fields. At about 3.00 pm when he reached the village the accused questioned him as to why he was ploughing the land. They said that the Gram Panchayat had leased out the land to them on 26.5.1995. Complainant told them that he had taken the land on lease for a period of five years i.e. 1993 to 1998 and the Gram Panchayat had no right to lease out the land again to some other person. The accused threatened the complainant that they would forcibly take possession of the land and not allow the complainant to cultivate the same. There was exchange of hot words between the complainant and the accused. The complainant told the accused that they could not forcibly dispossess him. On this all the accused who were armed with *lathies* attacked him. Accused Shobha Ram, Sri Ram and Ramesh caused injuries with *lathies* on the finger of his right hand resulting in his finger being fractured. Bijender son of Ram Singh, Kishore s/o Ghanshyam, Tika Ram s/o Roshan Lal, Shiv Charan s/o Ram Chand,

Balbair s/o Ram Lal, Paras Ram s/o Ram Chand came to the rescue of the

complainant. The accused caused injuries to them as well. Accused Ram Kumar and Lachhi Devi caused injuries to Bijender on his head, right shoulder and right arm. Ram Kumar and Lachho caused injuries to Kishori on his temple, right thumb and head. Accused Ram Babu caused injuries to Roshan Lal on his right leg. Accused Shobha caused injuries to Shiv Charan on his head with a *lathi*, while Moola and Raghunandan had caught hold of him. Accused Dhanshi and Ramesh caused injuries to Balbir on his thumb and scapula. Bhudev and Rishi caused injuries to Paras Ram on his left shoulder and middle finger with *lathies*. After hearing their cries Kishan s/o Srichand, Narayan s/o Vasudev, Raju s/o Hari came there and rescued them. The accused also received some injuries during the occurrence. Some of the injuries were sustained when they were hit by the *lathies* of their co-accused in the melee. Some injuries were caused to the accused in self-defence.

4. As cross-case arising out of FIR No.77 dated 5.6.1995, Police Station Hassanpur under Section 302 IPC relating to the same occurrence had already been committed to the Court of Session for trial in which the complainant and others had been booked under Section 148, 149, 323, 325, 307 IPC the complaint was also committed to Court of Session.

5. To substantiate his case the complainant examined four witnesses. The statement of the accused under Section 313 Cr.P.C. was recorded. They stated that they were innocent. They were present in connection with auction of land at the village Choupal where they were attacked by the complainant party which caused multiple injuries to several persons on their side. One of them Ram Kishan succumbed to the injuries

that they would lead evidence in defence to prove injuries on their person and also to prove the circumstances in which injuries were caused to them and to Ram Kishan. They examined four witnesses in defence.

6. PW1 complainant deposed as per the averments in the complaint. He stated that the complainant party had gone to Police Station Hassanpur for lodging report about the incident. From there they had gone to Government Hospital, Hassanpur. Then the police detained them. They were bailed out after six months and then instituted the private complaint. In cross-examination he admitted that there was a dispute in the court of SDM with regard to the disputed land. He admitted that he had lost the case before the SDM, but stated that an appeal had been filed against the order of the SDM. He stated that he did not know if on 5.6.1995 Patta was released in respect of that very land. He stated he was not present in the village on 5.6.1995. He had reached the village at about 3.00 pm on that date and he did not know as to what had happened in the village before that. He claimed that even till date he did not know that on 5.6.1995 an altercation had taken place in the village in which Ram Kishan had been killed.

7. PW2 Kishore stated that on 5.6.1995 at about 2.45 pm he was going from the village towards the fields. He heard some noise and noticed that his brother Chet Ram had been waylaid by accused Raghunandan and 11 others. All of them were armed with *lathies*. Then from the side of the complainant Bijender, Paras Ram, Balbir, Shiv Charan and Tika Ram also came there. Laxman and Ram Kumar accused gave *lathi* blows on the right side of his head and hand. Bijender was given *lathi* blows by Lachhman and Devi accused on his head, face and hand. Teeka Ram was given *lathi*

blow on his right leg by Ram Babu. Shiv Charan was caught by Moola and

Raghunandan and given blows by Shiba Ram on his head. Balbir was given Lathi blows on his left shoulder and left arm by Ramesh and Ghanshyam. Paras Ram was given injuries by Rishi and Bhudev on his left hand and shoulder. The complainant party was rescued by Narain and Kishan. In exercise of the right to self defence injuries were caused to Sri Ram, Nathi, Ram Kumar, Laxman, Ghanshyam and Ramesh. In cross-examination he stated that on 5.6.1995 the disputed land was released on *patta* by the Panchayat. The said *patta* was taken by Bhudutt. He however, did not know if Bhudutt had made payment of lease money in the village Choupal. He stated that on 5.6.1995 at about 12 to 1 pm he was present at his residence. At that time Chet Ram was in the fields.

8. DW1 Dr. A.K. Sharma, CMO, Safdurjang Hospital New Delhi stated that on 9.6.1995 at about 11.50 am, he had conducted postmortem examination on the dead body of Ram Kishan s/o Ram Dayal and had found the following injuries on his body vide his report Ex.DA:

- “1. Contusion 5x4 cm. on the right frontal region.*
- 2. Contusion 3x4 cm. on the left frontal region.*
- 3. Both the eyes were black.*
- 4. Scabbed abrasion 8x8 cm. on the middle back of the left side of the chest.*
- 5. Small abrasion on the left knee joint.*
- 6. Small abrasion on the left ankle.*
- 7. There were scabs on injuries No.5 & 6.”*

9. On internal examination of the scalp thick effusion of blood was there. The skull was depressed and commuted fracture on either side of frontal parietal region. There was thick sub-dural haematoma all over both cerebral hemispheres of brain. There was contusion haematoma on both frontal basis. Duration between conducting the postmortem examination

and death was 21 hours. The cause of death was due to head injury caused by blunt force impact. Injuries No.1 & 2 individually and collectively were sufficient to cause death in ordinary course.

10. DW2 Dr. Jagmohan Mittal, SMO, CHC Kaurali (Faridabad) stated that on 5.6.95, he was posted as SMO General Hospital, Palwal. On that day, he had medico legally examined Sri Ram and as per his report Ex.D2, found the following injuries on his person:-

- “1. A lacerated wound 5.5x.7 cm into scalp deep on the parietal region slightly on the right side of mid line with fresh bleeding.*
- 2. A lacerated wound .75x.25 cm into muscle deep on the left knee joint.*
- 3. A lacerated wound 1.5x1/3 cm into bone deep with diffused swelling on the lower 1/3rd of the left leg.*
- 4. A lacerated wound 1x1/3 cm into skin deep on the middle of 1/3rd of right leg.*
- 5. Diffused swelling with red bruise on it measuring 12x3 cm on the right scapular region.*
- 6. Abrasion 2 cmx3/4 cm with diffused swelling on the left scapular region.”*

Injury No.3 was declared grievous, whereas injury No.4 was declared simple. X-ray was advised by him in respect of rest of injuries. All the injuries found by him were caused by blunt weapon.

11. On the same day, he had medico-legally examined Ram Kishan and as per his report Ex.PJ, found the following injuries on his person:-

- “1. Swelling 4x4 cm on the left side of frontal region near hair line. There was bleeding from the nose.*
- 2. Swelling 4x3 cm on the right frontal region near hair line.*
- 3. Red bruise 10x2 ½ cm on the left knee anteriorly placed*

with swelling.

4. Superficial abrasion 1x1 cm on the right thigh anteriorly on the lower 1/3rd. ”

Injury No.4 was declared simple while rest of the injuries were kept under X-ray observation.

12. He had also examined Ghanshayam on the same day and as per his report Ex.PK found the following injuries :-

“1. Lacerated wound 4x½ cm into scalp deep on the right fronto parietal region.

2. Diffused swelling on the right knee joint anteriorly placed.

3. Red bruise 8x2.5 cm on the upper 1/3rd of right arm posteriorly.

4. Slight swelling on the back of the neck with red colouration on it. ”

Injury No.3 was simple while rest of the injuries were kept under X-ray observation. All the injuries were caused by blunt weapon.

13. The medico-legal examination of Ramesh s/o Ram Kishan revealed the following injuries :-

“1. Lacerated wound 4x5 cm into ¾ cm into scalp deep on the right parietal region.

2. Red bruise 7x3 cm on the upper 1/3rd of the left arm anteriorly placed.

3. Diffused swelling on the right scapular region upper part.

4. Red bruise 15x2 cm on the right thigh on the upper 1/3rd posteriorly. ”

Injuries No.3 & 4 were declared simple. The rest were kept under X-ray observation. All the injuries were found to have been caused by blunt weapons, within a probable duration of 6 hours.

14. On medico-legal examination of Ram Kumar the following injuries were found :

- “1. A lacerated wound 8x2.5 cm into scalp deep on the left occipital-parietal region.*
- 2. A red bruise with swelling on the lower 1/3rd of the left fore-arm posteriorly on the medical aspect.*
- 3. Diffused swelling on the lower ½ of the right fore-arm posteriorly with lacerated wound 1 cm x 1/3 cm into muscle deep.*
- 4. Diffused swelling on right hand posteriorly.*
- 5. Diffused swelling on right foot.*
- 6. Diffused swelling on right scapular region.”*

Injury No.6 was declared simple in nature. The rest were kept under x-ray observation. All the injuries were caused by blunt weapons within a probable duration of six hours.

15. He also medico-legally examined Nathi Lal. As per his report EX.PN he found the following injuries on his person:-

- “1. A diffused swelling on the upper 1/3rd of the right leg.*
- 2. Abrasion 1 x ½ cm on the right scapular region, according to him both the injuries were caused by blunt weapon, within a probable duration of 12 hours. Injury No.2 was declared simple while injury No.1 was kept under x-ray observation.”*

16. The medico-legal examination of Laxman as per his report Ex. PO revealed the following injuries:-

- “1. Abrasion ¾ cm x 1/3 cm on the left parietal region.*
- 2. Diffused swelling with red bruise with abrasion on the right shoulder on the upper part.*
- 3. Red bruise 4 x 2 cm on left scapular region.*
- 4. Diffused swelling on the right hand posteriorly placed.*
- 5. Slight swelling on the right buttock with redness.*

6. Diffused swelling on the right knee joint anteriorly placed.

7. Diffused swelling on upper 1/3rd of right leg laterally placed.

8. Diffused swelling on right leg laterally placed.”

Injury Nos.1, 3 & 5 were declared simple in nature. The rest were kept under x-ray observation. All the injuries were caused by blunt weapon within a probable duration of six hours.

17. He had also sent ruqa to Police Station Hassanpur intimating about the admission of the injured in the hospital. On Police application he gave his opinion that Ramesh, Nathi, Ghanshyam, Laxman, Ram Kumar and Sri ram were fit to make statements. Ram Kishan was unfit to make statement.

18. DW3 Inspector Puran Chand, CIA Gurgaon stated that on 5.6.1995 he was posted in Police Station Hassanpur. He received information at about 5.00 pm about some altercation in village Khambi. He went to village Khambi and learnt that the injured had gone to General Hospital, Palwal. At General Hospital Palwal he recorded the statement of Sri Ram whom the doctor had declared fit to make a statement. He sent ruqa for registration of a case on which formal FIR was registered at Police Station Hassanpur at 8.45 pm. He also recorded the statements of Ramesh, Nathi Lal, Ghanshyam, Laxman and Ram Kumar who were declared fit for making statement. Ram Kishan was declared unfit to make a statement. He then went to village Khambi at about 8.15 pm and prepared a rough site plan. He recorded the statement of Guru Dutt and Hari Singh under Section 161 CrPC. All the accused except Prem Chand and Keshav Dutt were

arrested on 6.6.1995 from village Khambi. The weapons produced by them

were taken into custody. Prem Chand and Keshav were arrested on 9.6.1995. Ram Kishan died on 9.6.1995, whereafter the offence was converted to one under Section 302 IPC.

19. DW4 Dulli Chand Sarpanch stated that he has been Sarpanch of Gram Panchayat Khambi since 16.3.2000. Before him Smt. Geeta was the Sarpanch. He brought the proceedings Register. The proceedings of 5.6.1995 are entered in the Register. He could not say in whose hand the proceedings were recorded. He stated that on 5.6.1995 he might have been in village Khambi. No dispute had taken place in his presence.

20. The learned Trial Court noticed that the complainant and the accused had a different version about the incidents of 5.6.1995. As regards the version of the complainant there were glaring inconsistencies in the testimonies of PW1 Chet Ram and PW2 Kishore both regarding the place of occurrence and the manner of infliction of injuries which in addition to the unexplained delay in filing the complaint raised doubts about the case of the complainant.

21. PW1 Chet Ram stated that on 5.6.1994 after cultivating the land he had started for his village Khambi. At about 3.00 PM the accused met him. They had an altercation with him whereafter they attacked him and caused injuries on his right hand finger. Thereafter his brother Kishore, Bijender, Shiboo @ Shiv @ Shiv Ram, Balbir and Paras Ram also came there. They were also caused injuries by the accused. This version is inconsistent with his stand in the cross-examination that he had reached the village Khambi at about 3.00 PM only and did not know about the happenings in the village before that.

was going from the village towards the fields he heard some noise and noticed that his brother Chet Ram had been waylaid by accused Raghunandan and 11 others. In cross-examination he stated that on 5.6.1995 at about 12.00/1.00 P.M., he was present at his residence. At that time Chet Ram was in the fields. This again does not square up with the version of Chet Ram that he had returned to the village at 3.00 p.m and did not know about the happenings there before that. He even disclaimed knowledge that any altercation had taken place in the village in which Ram Kishan had been killed.

23. PW2 Kishore also stated that accused Laxman and Ram Kumar had inflicted injuries with lathies on his head and right hand whereas PW1 Chet Ram stated that injuries were caused to him by Ram Kumar and Ram Babu. PW2 Kishore stated that a blow on the head of Shiv Charan was given by Sri Ram whereas according to PW1 Chet Ram this injury was inflicted by Shoba. As per PW2 Kishore injuries were inflicted on the left shoulder and left arm of Balbir by Ramesh and Dhansi. According to PW1 Chet Ram these injuries were caused by Ram Babu and Laxman. Similarly, the stand of PW1 and PW2 is discrepant with regard to the injuries on the person of Paras Ram. As per PW2 injuries on the left hand and shoulder of Paras Ram were inflicted by Rishi and Bhudev. PW1 Chet Ram on the other hand stated that these injuries were caused by Ramesh and Dhan Singh.

24. Besides there is considerable unexplained delay in filing the complaint. The occurrence is of 5.6.1995 whereas the complaint was filed on 8.12.1995. The explanation of the complainant party that the complaint

Complainant Chet Ram had been released on bail on 9.11.1995. The complaint was filed almost a month thereafter. This delay cast a doubt on the bona fides of the complainant. Moreover, the injuries caused to the complainant party were all minor whereas the injuries sustained by the accused were grievous including fractures suffered by many of them. Ram Kishan died as a result of the injuries sustained by him. The learned Trial Court rightly concluded that the complaint had been filed after due deliberations as a counter-blast to the case registered against the complainant herein.

25. There is no ground to interfere with the well-reasoned judgment of the trial Court. Consequently, the appeal is dismissed.

(RAJIV SHARMA)

JUDGE

(HARINDER SINGH SIDHU)

JUDGE

May 24, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No