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

CRA-D-363-DBA-2004 (O&M)
Date of Decision: January 09, 2020

State of Punjab

...Appellant

Versus

Kuldip Singh and others

...Respondents

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

Present: Mr. H.S.Grewal, Addl. A.G., Punjab
for the appellant - State.

HARINDER SINGH SIDHU, J.

1. Challenge herein is to the judgment dated 11.11.2002 passed by the Additional Sessions Judge (Adhoc), Fast Track Court, Hoshiarpur in Sessions Case No.13/FTC/1999/2002, whereby the respondents, who were charged with and tried for offence punishable under Sections 307, 325, 324, 323, 506, 148/149 of the Indian Penal Code (for short 'the IPC'), have been acquitted.
2. Leave to appeal was granted vide order dated 06.04.2004.
3. We have heard Sh. Grewal Ld. Additional Advocate General for the State of Punjab.
4. The case was registered on the statement of Shabhaj Singh who stated that on 12.8.1998 at about 8.30 AM he along with Paramjit Singh were returning to their village Mangarh from Dasuya on a motorcycle. He was driving the motorcycle and Paramjit Singh was sitting on the pillion. When they were some distance short of the bus stand of Village Randhawa, a Jonga (jeep) came from the

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opposite side. It was being driven by Harjinder Singh @ Pappu. The other accused Manjit Singh, Jatinder Singh, Monu s/o Gurdial Singh, Gurpreet Singh and Kuldip Singh were also in the said Jonga. Onkar Singh accused was following them on a motorcycle. Onkar Singh raised lalkara saying that the complainant be taught a lesson for beating the boys belonging to their village. Hearing this Harjinder Singh struck the Jonga against the motorcycle of the complainant. Both the complainant and Paramjit Singh fell down. The occupants of the Jonga come down. Kuldip Singh gave a datar blow on the right arm of the complainant. Manjit Singh inflicted hockey blow on his shoulder. Jatinder Singh inflicted a hockey blow on his right leg. Monu and Gurpreet Singh gave him fist blows. They were taken to Civil Hospital, Dasuya by Gurminder Singh. The accused ran away leaving the Jonga behind.

5. To prove the charges against the accused the prosecution examined PW-1 Dr. Ram Kishan Chopra, PW-2 Dr. H. S. Sandhu, PW-3 Dr. Didar Singh, PW-4 Subhash Chander, PW-5 Amarjit Singh, PW-6 Shabhaj Singh, PW 8 HC Darshan Singh, PW-9 Manjit Singh and PW-10 Ravi Dutt.

6. The case of the accused as elaborated in the statement u/s 313 Cr.P.C. of Kuldip Singh, who was driving the Jonga was that he was driving the Jonga towards Dasuya side. When he was at some distance from Bus Stand, Randhawa, the tyre of his Jonga burst and the Jonga went out of control. Meanwhile, Paramjit Singh came there from the opposite side on a motorcycle. Paramjit Singh received some injuries in the resultant impact. It was purely an accident. Jatinder Singh accused came there on a scooter by chance. As per the desire of Paramjit Singh he was taken to Chopra Hospital, Dasuya on a scooter by him and Jatinder Singh. Shabhaj Singh had got a false case registered against him and others with the help

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of Santokh Singh Sarpanch of their village on account of previous enmity. He also stated that they had no enmity with Paramjit Singh.

7. The accused examined DW-1 DSP Ajaib Singh and DW-2 Constable Balwant Singh.

8. The Ld. Trial Court after evaluating the evidence came to the conclusion that it was a case of accident pure and simple. The Court accepted the argument of the Counsel for the accused that if the accused had any intention to kill the complainant and his companion they would not have taken Paramjit Singh to the Hospital. The Court also agreed with the contention of the Counsel for the accused that the very fact that Paramjit Singh was got admitted in the Hospital of Dr. R.K. Chopra at Dasuya showed that only Paramjit Singh had sustained injuries in the accident. As per the evidence Paramjit Singh had sustained injuries in the accident. Paramjit Singh had sustained as many as 14 injuries, whereas, Shabhaj who was alleged to be driving the scooter had sustained only three injuries on non vital parts which were simple in nature. PW-3 Dr. Didar Singh stated the possibility of these injuries being self suffered could not be ruled out. The Court accordingly concluded that the injuries on Shabhaj Singh had been fabricated later on in connivance with Santokh Singh, the Sarpanch of the village, just with a view to make him a stamped witness. The conclusion that he may not have been present at the spot was strengthened from the evidence that Shabhaj Singh was taken to Civil Hospital, Dasuya by Gurminder Singh whereas as per the deposition of PW -1 Dr. Ram Kishan Chopra, Parmajit Singh was taken to his hospital by Kuldip Singh and Jatinder Singh. If both Paramjit Singh and Shabhaj had sustained injuries in the same incident ordinarily they would have been taken to the same hospital and by the same persons.

9. The defence version that it was an accident caused by bursting of the tyre of the Jonga was further corroborated from the evidence of PW4 Subhash Chander Mechanic who found that the tyre of the Jonga was burst and damaged.
10. The Court also found that the presence of Onkar Singh accused at the spot was doubtful. DW2 Constable Balwant Singh proved Register Ex.D-4 in which there was an entry dated 12.8.98 at Sr. No.3 that Onkar Singh was present in Police Station, Dasuya from 8.10 AM to 12.30 PM in connection with an enquiry got initiated by him earlier. This entry was also proved by DW1 DSP Ajaib Singh. The Court concluded that Onkar Singh had been falsely implicated because he had contested election of Sarpanch against Santokh Singh.
11. For these and other reasons, the Court found that the prosecution had failed to establish the charge against the accused beyond reasonable doubt. They were acquitted giving them the benefit of doubt.
12. We fully agree with the findings of the Ld. Trial Court.
13. Accordingly, this appeal is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

January 09, 2020
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No