

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

CRR-2215-2008(O&M)

Date of decision:-18.2.2020

Sukhmander Singh @ Mander Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.S.S. Sidhu, Advocate
for the petitioner.

Rana Harjasdeep Singh, DAG, Punjab.

H.S. MADAAN, J.

Briefly stated, the facts of the case as per the prosecution story are that on 27.8.2002 at about 9:00 a.m., complainant Palwinder Singh son of Gurtej Singh, a resident of village Guru Sar Saine Wala, President of Canter Union, Bathinda along with Kaka @ Sukhcharan Singh son of Balwinder Singh were coming on the canter 407 bearing registration No.HRB-2075 and in the way Nikka Singh also accompanied them; Gurpiar Singh was also travelling with them; they were going to meet Raja Singh son of Mann Singh, resident of Naruana by kachha passage; Raja Singh was not at home; in order to go to Bathinda, they

came to bus stand of Naruana and stopped the canter; the complainant along with Sukhcharan Singh started for the house of Balkar Singh son of Kaur Singh, who was the driver of his canter having his house situated near bus-stand; in the meanwhile Mander Singh son of Gurcharan Singh, resident of Naruana, who was earlier working as conductor on the canter of the complainant came there; he was having an iron rod with him and he attacked the complainant; Mander Singh also gave a blow with iron rod to Sukhcharan Singh; Mander Singh was accompanied by one or two other persons, who had caused injuries to the complainant; on alarm being raised, the assailants ran away from the spot along with their respective weapons. The motive for causing the injuries was that the complainant had dismissed Mander Singh from the job of conductor. The injured were removed to Civil Hospital, Bathinda.

On the basis of statement of the complainant to the police of Police Station Sadar, Bathinda, formal FIR in the matter was registered. The investigation in the case started. Injury No.1 on the person of Palwinder Singh was declared to be grievous in nature. On 28.8.2002, Buta Singh, Sarpanch produced accused Sukhmander Singh @ Mander Singh son of Gurcharan Singh, Kuldeep Singh son of Harbans Singh and Kuljit Singh son of Harbans Singh before the police. All of them were asked to produce the weapons used by them in the incident. Sukhmander Singh stated that he had left the rod at the spot, which could not be recovered later on. The accused were released on bail. After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court of Judicial Magistrate IInd Class, Bathinda, he supplied copies of documents relied upon in the challan to the accused free of cost as provided under Section 207 Cr.P.C.

Learned Judicial Magistrate IInd Class, Bathinda finding that charge for offences under Sections 325/323/34 IPC was disclosed against all the accused, charge-sheeted the accused for the said offences, to which, they pleaded not guilty and claimed trial.

During the course of its evidence, the prosecution had examined in as many as five witnesses i.e. PW1 Dr.I.B. Aggarwal, Medical Officer, PW2 Palwinder singh – complainant, PW3 Sukhcharan Singh – injured and eye-witness, PW4 Dr.H.L. Garg and PW5 SI Harcharan Singh.

With that the prosecution evidence got concluded.

Statements of the accused were recorded under Section 313 Cr.P.C. in which the accused while denying the incriminating circumstances appearing against them submitted that they were innocent and had been falsely involved in the case.

In defence evidence, the accused examined Buta Singh as DW1.

The trial Court formulated following points for determination:

1. Whether all the accused acted in furtherance of common intention and accused Mander Singh voluntarily caused injury with the help of iron rod to the complainant as well as eye witness? If so its effect.

2. Whether all the accused acted in furtherance of common intention and accused Kuldeep Singh and Kuljeet Singh voluntarily caused injury to the complainant? If so its effect.

After hearing arguments, learned trial Magistrate vide judgment dated 9.6.2008 convicted all the accused for the offences under Sections 325/323 IPC read with Section 34 IPC and vide order of the even date sentenced them as under:

Name of convict	Offence	Sentence Awarded
Sukhmander Singh	u/s 325 IPC	To undergo RI for a period of one year and fine of Rs.500/-
--do--	u/s 323/34 IPC	To undergo RI for a period of six months.
Kuldeep Singh	u/s 325/34 IPC	To undergo RI for a period of one year and fine of Rs.500/-.
--do--	u/s 323 IPC	To undergo RI for a period of six months
Kuljeet Singh	u/s 325/34 IPC	To undergo RI for a period of one year and fine of Rs.500/-
--do--	u/s 323 IPC	To undergo RI for a period of six months.

All the sentences were ordered to run concurrently. All the accused had been sentenced to pay a fine of Rs.500/-, failing which, they had been further sentenced to undergo RI for a period of 15 days.

Feeling aggrieved, the accused/convicts had preferred an appeal before learned Sessions Judge, Bathinda, who vide judgment dated 26.9.2008 accepted the appeal qua Kuldeep Singh and Kuljeet Singh, in the process, acquitting them of the charge framed against them. Whereas

appeal with respect to accused Sukhmander Singh @ Mander Singh was dismissed. He was ordered to be taken into custody and sent behind bars.

Accused Sukhmander Singh @ Mander Singh felt aggrieved by such judgments passed by the Courts below and has approached this Court by way of filing the present revision petition, notice of which was issued to respondent - State, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

PW2 Palwinder Singh - complainant and PW3 Sukhcharan Singh – injured had fully supported the prosecution story. Although they were cross-examined at length on behalf of the accused but they stuck to their guns and could not be shattered on any material point. A few minor contradictions and variations in their statements do not go to the root of matter since those are bound to occur due to difference in power of perception, observation and retention of events in various persons and so also due to lapse of memory due to passage of time etc. The fact cannot be lost sight of that different persons have got variable memorization of the events. Merely because a witness slipped at a few places regarding the minute details does not go to put a question mark over his credibility and truthfulness. These minor variations and contradictions rather go to show that the witnesses have deposed in a natural and truthful manner unlike tutored witnesses who depose in a parrot like manner. Both the eye-witnesses having suffered injuries in the incident are stamped witnesses and their presence at the spot cannot be doubted. The account of the incident given by both of them is convincing and worthy of reliance.

The medical evidence corroborates the ocular evidence. The investigation in this case has been conducted in a fair and impartial manner. The Investigating Officer had no reason to involve the accused Sukhmander Singh @ Mander Singh in this case wrongly, challan him falsely or to depose against him to secure his conviction.

PW2 Palwinder Singh and PW3 Sukhcharan Singh having suffered injuries in the incident would have been the last persons to try to screen the actual culprit and involve the accused in this case falsely since it is always the earnest endeavour of the injured to ensure that the person responsible for causing injuries to them is brought to book and is punished suitably rather than attempting to shield the actual culprit and involve some innocent person in his place without any rhyme or reason.

Merely because two of the co-accused of the petitioner/revisionist have been acquitted by giving benefit of doubt does not to go show that the story of the prosecution qua the revisionist is wrong. The eye-witnesses were consistent in deposing against them. Similarly, as regards non recovery of the weapon that does not affect the prosecution story adversely because it has come on the record that when the petitioner had surrendered before the police and was questioned regarding the weapon used by him in the incident, he had stated that he had left it at the spot, however the same could not be recovered.

There is no illegality or infirmity in the judgment passed by learned Sessions Judge, Bathinda. The judgment is certainly not arbitrary or against the settled principles of criminal justice. I do not see any reason to interfere with it by accepting the revision petition.

Finding no merit in the revision petition, the same stands dismissed accordingly.

Necessary information be sent to the quarter concerned.

18.2.2020
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No