IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-2482-SB of 2007 (O&M)
DATE OF DECISION :- September 06, 2022

Satnam Singh @ Doctor and others **...Appellants**

Versus

State of Punjab **...Respondent**

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

Present:- Mr. Anupam Bhardwaj, Advocate for the appellant.

Mr. G.S. Dhillon, AAG, Punjab.

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1. The first Information Report in this case was recorded on the basis of statement of complainant Yusuf Masih, which he made to SI Vishwa mitter (hereinafter referred to the investigating officer/IO), while such police officer along with other police officials from Police Station Lopoke, District Amritsar was present at Chowk Choganwan on 4.10.2004. Interalia complainant Yusuf Masih stated that Maqbool Masih is his father's elder brother and Sati daughter of Maqbool Masih was engaged with Maqbool Masih @ Kala about five years earlier. Chanan Singh, grand father from in-laws side of Sati had died.

2. On 26.9.2004 Swaran Singh had organized a religious function on account of death of Chanan Singh. After the Bhog ceremony the persons who had come to participate in the ceremony were served with food and liquor, which continued upto 4.00 P.M.. According to the complainant he along with Manga Masih son of Mukhtiar, Gurmukh Masih @ Sukha were standing outside house of Swaran Singh after taking food. They were talking with their relative Maqbool Masih @ Kala and his father Tarsem Masih. At about 5.00 P.M, Swaran Singh son of Chanan Singh, Tarsem Singh, Satnam Singh @

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Doctor, Mannual Masih @ Cofi son of Sadha Singh armed with dangs arrived there. Satnam Singh @ Doctor raised a lalkara (exhortation) that the complainant side should be caught hold of and should not be allowed to escape as they were defaming them at every place and they had not accepted their proposal for matrimonial alliance, as such they should be finished. Satnam Singh @ Cofy caught hold of complainant, taking him in a grasp and threw him on the ground. Satnam Singh @ Doctor aimed a dang blow on the complainant, who in order to save himself raised his right arm as a result blow hit him on his right arm. The second blow was given by Swaran Singh hitting the complainant on his waist. The complainant raised alarm. Manga Masih and Gurmukh Singh intervened and rescued the complainant. According to the complainant injuries were given to him by the accused in furtherance of their common intention and after causing injuries to him they had run away. The respectables and relatives tried to get the dispute compromised between them but their efforts proved futile. Therefore, the matter was reported to the police.

3. In the cross case injuries were received by Tarsem Singh also. The complainant had submitted his MLR to the investigating officer which revealed that two injuries were mentioned therein. Injury No. 1 was kept under observation whereas injury No. 2 was declared to be simple in nature. Medico legal examination documents of other injured were also produced.

4. After recording statement of complainant the I.O. sent Ruqa to Police Station on the basis of which formal F.I.R was recorded. The investigating officer along with other police officials went to the place of occurrence and carried out its inspection and prepared rough site plan Ex.PW5/A. He recorded statement of Manga Masih. The accused were arrested in this case. Accused Satnam Singh was interrogated during course of which he suffered a disclosure statement and in pursuance thereof got recovered a

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gandasi from his possession which was seized by the I.O. On completion of investigation and other formalities challan against the accused was prepared and filed in the Court.

5. After presentation of challan in the Court of Illaqa Magistrate, Amritsar, copies of documents relied upon were supplied to the accused free of cost as provided under Section 207 Cr.P.C. and then finding that the cross version of the incident regarding which challan had been filed for an offence under Section 307 IPC had been committed to the Court of Sessions, learned Illaqa Magistrate committed this case also for trial along with the said challan.

6. On receipt of challan, finding a prima facie case charge against all accused under Section 148 IPC, under Section 326 IPC against accused Satnam Singh and under Section 326/149 IPC against the other accused, under Section 323 IPC against Swaran Singh and under Section 323/149 IPC against the other accused, under Section 324 IPC against Satnam Singh and against other accused under Section 324/149 IPC and against Swaran Singh under Section 323 IPC and against other accused under Section 323/149 IPC was framed.

7. During the course of prosecution evidence prosecution examined Yusuf Masih as PW1, Manga Masih as PW2, Dr. Surinder Singh Bedi as PW3, Gurmukh Singh as PW4, SI Vishwa Mitter as PW5, HC Pakhar Singh as PW6 and HC Lakhbir Singh wrongly renumbered as PW4. With that the prosecution evidence got concluded.

8. Statements of the accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against the accused were put to them but they denied the same contending that they were innocent and had been falsely implicated in this case and that they did not cause any injury to the complainant party rather complainant caused injury to

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them. The accused did not lead any evidence in defence.

9. After hearing arguments vide impugned judgment dated 20.11.2007 the trial Court concluded that since the injuries in this case were inflicted by the accused in furtherance of their common intention and all of them had come to place of occurrence with arms, presence of only three persons at the place of occurrence had been proved, therefore, offence under Section 148 IPC was not made out. Swaran Singh and Mannual Masih were found not guilty and were acquitted of the charge framed against them. All the accused were acquitted of the charge under Section 148 IPC framed against them whereas accused Satnam Singh, Tarsem Singh and Sukhmit Singh were convicted. Vide order passed on that very day, the accused were sentenced as follows :-

Name of accused	under section	Period of sentence
Satnam Singh	326 IPC	RI for 3 years and to pay fine of Rs.700/- and in default of payment of fine to undergo further RI for 1 month.
	323/34 IPC	RI for 6 months.
Tarsem Singh	326/34 IPC	RI for 3 years and to pay fine of Rs.700/- and in default of payment of fine to undergo further RI for 1 month.
	323 IPC	RI for 6 months.
Sukhmit Singh	326/34 IPC	RI for 3 years and to pay fine of Rs.700/- and in default of payment of fine to undergo further RI for 1 month.
	323 IPC	RI for 6 months.

10. All the sentences were ordered to run concurrently.

11. Feeling aggrieved by the judgment of their conviction and order

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of sentence, accused convict Satnam Singh @ Doctor, Tarsem Singh @ Bhatti and Sukhmit Singh @ kofi had approached this Court by way of filing an appeal which was taken up on 13.12.2007 when it was admitted for regular hearing. The appellants were on interim bail granted to them by the trial Court, in order to enable them to prefer an appeal before this Court their sentence was suspended and they were granted bail during the pendency of the appeal subject to their furnishing requisite bonds to the satisfaction of Chief Judicial Magistrate, Amritsar.

12. Now the appeal has come up for final hearing.

13. I have heard learned counsel for the appellants and learned State counsel besides going through the record.

14. Learned counsel for the appellants has contended that there is gross delay of 8 days in reporting the matter to the police because incident in this case had taken place on 26.9.2004 whereas the complainant had made statement to the police which formed basis for the registration of the F.I.R on 4.10.2004 i.e. after 8 days of the incident. Learned counsel for the appellant has contended that no satisfactory and plausible explanation has been given for gross delay in reporting in the matter to the police rather such delay was utilized to concord and fabricate a version. Secondly the prosecution has not explained the injuries suffered by the opposite party which goes to show that the origin and genesis of the incident was suppressed, therefore, the prosecution story is not worthy of reliance; further more the parties have since resolved their differences amicably, therefore, the appeal be accepted and the appellants be acquitted of the charge framed against them. Whereas, learned State counsel while defending the impugned judgment has submitted that the appeal be dismissed.

15. The cardinal principles of criminal jurisprudence are that the

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prosecution must prove its charge against the accused beyond a shadow of reasonable doubt. Such onus to prove guilt of the accused to the hilt is stationary on the prosecution and it never shifts. The accused is not expected to prove his defence with same exactness and rigor, with which the prosecution is required to prove guilt of the accused. The accused is required to render only a reasonable and plausible explanation, which may cast a doubt in the mind about the truthfulness of the prosecution story. Furthermore, as per our jurisprudence, hundreds of guilty persons may go scot-free but even one innocent should not be punished.

16. In the instant case there are many lacuna and loopholes in the prosecution case, giving rise to a reasonable doubt in the mind about the guilt of the accused.

17. Firstly there is gross delay of 8 days in reporting the matter which has not been explained. The delay is always looked down upon with suspicion by the Courts since it leaves a wide room open where possibility of false implication after due deliberation and consultation can easily creep in. When an incident is promptly reported to the police it gives a spontaneous and blemish free version and with passage of time the element of truth in the version get diluted with chances of coloured version being introduced after due deliberation and consultations.

18. In this case no satisfactory explanation is coming forth for gross delay of 8 days in reporting the matter to the police except a vague explanation that efforts for compromise were being made. No convincing evidence in this regard has been brought on file hence the delay proves fatal and prosecution story is liable to be rejected on that score alone.

19. Secondly no explanation is being given as regard the injuries on

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the person of the accused. Admittedly an F.I.R had been registered against the complainant party, giving a counter version of the incident on that very day. The prosecution having not explained such injuries on person of accused goes to show that the incident had not taken place in the manner as suggested by the prosecution and an attempt has been made to suppress its origin and genesis. Thus for the reasons mentioned above a reasonable doubt arises in the manner about truthfulness of prosecution story. As per law benefit of such doubt is to go to the accused. The trial Court has wrongly denied the same to the accused. The impugned judgment and conviction and sentenced passed against the accused are not sustainable and are bound to be set aside. Even otherwise the parties have since buried their differences by entering into a compromise.

20. Therefore, the appeal is accepted, the impugned judgment of conviction and sentence passed by the trial Court against the appellants accused is set aside and they are acquitted of the charge framed against them.

21. All pending miscellaneous applications shall also stands disposed of.

(H.S. MADAAN)
JUDGE

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Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

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