

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.**

CRA-S-2340-2019 (O & M)

Reserved on: 10.08.2022

Pronounced on: 26.08.2022

VIJAY KUMAR @ BUNTY AND ORS.

.....Petitioners

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Argued by: Mr. J.S.Thakur, Advocate
for the applicant-appellants.

Mr. M.S.Nagra, AAG, Punjab.

SURESHWAR THAKUR, J.

1. The learned Additional Sessions Judge, Jalandhar through a verdict drawn on 29.07.2019, upon case SC/134/2017 proceeded to, in respect of charges drawn against the accused for offences punishable under Sections 307, 324, 323, 326, 201, 148 and 149 of the IPC, make a verdict of acquittal qua co-accused Deepak Kumar @ Pillu, and, also qua co-accused Bahadur, but proceeded to record a verdict of conviction in respect of other co-accused namely Mintu @ Mau, Shanty @ Haveli, and, Vijay Kumar @ Bunty. Co-accused Balwinder @ Billa has been declared a proclaimed offender, and, he did not face the charge (supra).

2. Moreover, through a separate sentencing order drawn on

30.07.2019, the learned trial Judge concerned, proceeded to make the hereinafter extracted sentence(s) upon the convicts.

Name of convicts	Offence U/s	Sentence to undergo RI for	Fine of Rs.	In default of payment of fine to undergo RI for
1. Mintu @ Mau	324 IPC	1 ½ years	2,000/-	Two months.
	307/34 IPC	6 years	15,000/-	Six months.
	324/34 IPC	1 ½ years	2,000/-	Two months.
2. Shanty @ Haveli	324/34 IPC	1 ½ years	2,000/-	Two months.
	307 IPC	6 years	15,000/-	Six months.
	324/34 IPC	1 ½ years	2,000/-	Two months.
3. Vijay Kumar @ Bunt	324 IPC	1 ½ years	2,000/-	Two months.
	307/34 IPC	6 years	15,000/-	Six months.
	324/34 IPC	1 ½ years	2,000/-	Two months.

3. The convicts become aggrieved from the verdict of conviction (supra), and, also become aggrieved from the consequential therewith sentence(s) (supra), as became imposed upon them by the learned Convicting Court, and, have chosen to assail them, through theirs' constituting the instant appeal before this Court.

4. The prosecution case is rested upon the FIR to which Exhibit PW-2/F is assigned. The appeal FIR narrates that on 20.11.2016, MHC of the police station told ASI Jagdish Lal that Sahil, and, Gagandeep are admitted in Orthonova Hospital, Jalandhar, having received injuries in a fight. Thereafter, ASI Jagdish Lal alongwith other police officials reached at the hospital. The doctor concerned declared Gagandeep Singh to be fit, and, Sahil to be unfit to make statement.

Gagandeep Singh @ Gaggi made statement to the effect that on

20.11.2016 at about 11.30 AM, he alongwith his brother Sahil @ Laddi was present in his house. They came to know that Rahul @ Meeta son of Raj Kumar and Buntty, Shanty @ Haveli, Chhota Mau sons of Bahadur are indulging in a fight. He alongwith his brother Sahil @ Laddi went to Rahul @ Meeta, and, asked for the reason of fight. They three were armed with *datars*. Their father Bahadur armed with a base ball bat, Pillu @ Deepak armed with hockey and Bitta armed with sharp edged weapon also came there and started quarrelling with him. Mau gave *datar* blow on the right side of his head, Bahadur gave base ball bat blow on his left shoulder. Pillu gave hockey blow with force on his left thigh. Buntty, Shanty, and, Bitta caught hold of his brother Sahil @ Laddi, and, started beating him. The accused persons inflicted injuries on his forehead, left side of head, and, left side of cheek. The motive for the quarrel was that earlier also, they had a dispute with Bahadur, and, his sons, and, Rahul @ Meeta had helped them at that time. However, the accused persons were nursing a grudge against Rahul @ Meeta, and, owing to that reason, they stopped Rahul @ Meeta in the street. The accused persons caused injuries in order to kill them.

5. On the basis of aforesaid statement, and, report of the doctor, ASI Jagdish Lal sent ruqa to the police station for registration of a case under Sections 307, 326, 324, 323, 148, 149 IPC. Thereafter, ASI Jagdish Lal visited the place of occurrence, and, prepared rough site plan to which Ex.PW-2/G is assigned, and, recorded the statement of witnesses. He also collected blood stained earth from the spot, and, put the same in a plastic box, converted it into a parcel, and, sealed the parcel with his seal. The said parcel was sent to FSL, Mohali. The bed

head tickets of Gagandeep and Sahil were obtained by ASI Jagdesh Lal.

6. After completion of investigations by the investigating officer concerned, into the FIR (supra), he instituted an affirmative report under Section 173 Cr.P.C., before the learned Committal Judge concerned, against accused Deepak Kumar @ Pillu.

7. Finding the case to be exclusively triable by the court of Sessions, the learned committing Court committed the case to the Court of the learned Sessions Judge, Jalandhar.

8. Supplementary challan was presented against accused Vijay Kumar @ Bunty, Shanty @ Haveli, Mintu @ Mau and Bahadur.

9. On finding a prima facie case, charges under Sections 148, 307, 326, 324, 323 read with Section 149 IPC became framed on 24.07.2017, against the accused, to which they pleaded not guilty, and, claimed trial.

10. After completion of recording of the depositions of the prosecution witnesses, the learned Additional Sessions Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but therein, the accused claimed false implication, and, pleaded innocence.

11. After conclusion of the trial, as, entered upon the FIR (supra), by the learned Additional Sessions Judge, Jalandhar, the latter proceeded to make the afore verdict of conviction, and, also made the consequent therewith sentences (supra), upon, the present appellants.

12. Since, at this stage, the learned State counsel, has not produced before this Court any material suggestive of the fact, that the verdict of acquittal, as made by the learned trial Judge concerned, qua Deepak Kumar @ Pillu, and, Bahadur has been challenged before this

Court, resultantly the above verdict of acquittal can be construed to be acquiring a conclusive, and, binding effect.

13. The genesis of prosecution version is supported by PW-3 Sahil, who is also the injured victim. Moreover, the deposition of PW-3 is corroborated by the deposition of another ocular witness to the occurrence namely Gagandeep Singh @ Gaggi, who stepped into the witness box as PW-6. A careful analyses of the deposition(s), of both PW-3, and PW-6, reveal that their respective testifications are bereft of any vice of any inter-se, or, intra-se contradictions, rather, obviously, when their respective testifications are in complete tandem with the genesis of the occurrence, as embodied in the appeal FIR, resultantly their respective testifications completely support the charge(s) drawn against the convicted accused.

14. If so, the ocular version, as, spelt with the firmest inter-se, and, intra-se corroboration by both PW-3, and, PW-6, does enjoin that evidentiary worth be assigned thereto. Though, the prosecution for corroborating the depositions of PW-3, and, PW-6 had also ensured, the stepping into the witness box of PW-4 Ricky, but it appears that PW-4 was not an ocular witness to the occurrence, and, the reason for forming the above conclusion, ensues from PW-6 Gagandeep Singh @ Gaggi, in his cross-examination rather making an echoing that PW-4 Vicky had visited the crime site after the crime event taking place there. In sequel, the testimony of PW-4 does not hold any firm evidentiary vigour.

15. Though, the learned counsel appearing for the aggrieved convicts has vigorously contended before this Court, that since, it is evident from a reading of the testifications of the complainant, and, of

the victim qua the crime incident happening in the presence of a large gathering, but yet with the investigating officer concerned, not joining any of the members of the gathering which congregated at the crime site, hence, as witnesses to the occurrence. Consequently, he vehemently argues, that the dependence, as made by the learned convicting Court upon the purported interested testimonies of the injured victim, and, of the complainant hence is amenable for becoming faulted. However, the above made submission is not appreciated by this Court, as the mere interestedness of any prosecution witness in, proving the charge drawn against the convicts, is not a sufficient parameter, for dispelling the creditworthiness of their testifications, unless sufficient evidence surges forth, and, its displaying, that the apposite respective testifications are ridden with a gross, and, stark vice, of either both improving upon their previously made statements in writing, and or, both making depositions with rife inter-se, and or, intra-se contradictions.

16. Since this Court on making a keen evaluations/analyses of the respective depositions of PW-3, and, PW-6 has formed an opinion, that the above vices do not ingrain, their respective testifications, as such, their mere interestedness is insignificant, and, also the non involvement of independent witnesses, in the relevant investigations by the investigating officer concerned, also does not underwhelm the probative vigour of the creditworthy testifications, as, made in respect of the crime event, rather by PW-3, and, PW-6.

17. Moreover, the credible ocular account in respect of the crime event, is also supported by credible medical account. The

credible medical account becomes comprised in the deposition of PW-9, who during the course of his stepping into the witness box, has proven Exhibit PW-2/FF, as became prepared in respect of the injured victim Sahil, and, with revelations therein that one of the injuries, as carried on the victim, was dangerous to life. Moreover, he has during the course of his stepping into the witness box, also proved Exhibit PW9/C, and, PW9/D, respectively comprising the medical treatment purveyed to patient Sahil victim, and, to Gagandeep Singh @ Gaggi-complainant.

18. Be that as it may, the gravity of the injuries entailed upon the person of victim injured Sahil, is candidly spelt out by PW-7, who had operated the patient injured Sahil, in respect of the assault/injuries, as became entailed upon his person, at the crime site, and, at the instance of the convicts.

19. Moreover, the investigating officer concerned, through respectively drawn memo(s) to which Exhibits PW1/A, PW-2/T, PW-2/U, PW-2/V, PW-2/X, are assigned, caused effectuation of recoveries, of the respective weapons of offence, hence at the instance of the convicts concerned. The recoveries of weapons of offence(s) as made through the above respectively drawn composite disclosure, and, recovery memo(s), does add vigour to the credible ocular account, and, to the credible medical account, as, rendered in respect of the crime event. The reasons for forming the above conclusion, ensues from the factum, that the signatures, as made thereons by the accused-convicts concerned, remaining un-denied by them, besides from the further factum, that during the course of the investigating officer being

subjected to cross examination, no suggestion becoming meted to him, and, appertaining to falsity of recoveries, or, qua the recoveries being planted.

20. In consequence, there is no merit in the appeal, and, it is dismissed. The impugned verdict(s), and, consequent therewith sentence(s) (supra) are affirmed and maintained.

26.08.2022

kavneet singh

(SURESHWAR THAKUR)

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No