

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-A-1250-MA-2018

Date of decision: 18.07.2023

Mohinder Singh

....Appellant

V/s.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Ms. Himani Kapila, Advocate
for the applicant/appellant.

Mr. Alankar Narula, A.A.G., Punjab.

Ritu Bahri, J.

1. The present appeal has been filed by the appellant-Mohinder Singh/complainant against the acquittal of accused vide judgment dated 30.11.2017 in a complaint case under Sections 326, 324, 323, 34 of IPC registered at Police Station Mamdot.

2. The brief facts of the case are that the complainant-Mohinder Singh has filed a complaint against the accused on the allegations that on 04.06.2010 at about 9:30 p.m., he alongwith his friend Dulla Singh were going back to their village on scooter. They stopped near State Bank of India, Ferozepur Cantt. to drink juice from juice shop. Meanwhile, the accused Ramesh Kumar @ Kala Singh came on his motorcycle and accused Goru son of Ramesh Kumar were sitting on the pillion. On another motorcycle, accused Gurcharan Singh @ Sony with accused Bhupinder Singh on the pillion came. The accused armed with *kirpan*, *kappa* and baseball bat. The accused Ramesh Kumar @ Kala raised *lalkara* upon which accused Goru gave a *kapa* blow, which hit on complainant's nose.

Accused Gurcharan Singh gave a *kirpan* blow which hit on right ear of

complainant. Accused Bhupinder Singh @ Bhinda gave a blow with baseball bat which hit on left arm of the complainant. When Dulla came forward to rescue and save him, then Gurcharan Singh gave a *kirpan* blow from behind which hit on left side of back of Dulla. Complainant and Dulla raised alarm upon which accused fled away from the spot alongwith their respective weapons. Roopa, brother of the complainant came at the spot and got admitted complainant and Dulla at Civil Hospital Ferozeshah. An FIR No. 54 dated 05.06.2010 under Sections 323, 324, 34 IPC was registered against the accused in Police Station Cantt, Ferozepur but no action was taken by the Police against the accused and hence the complainant was constrained to file complaint against them. On the basis of preliminary evidence, the accused were summoned for commission of offences punishable under Sections 326, 323, 324, 34 IPC vide order dated 29.03.2014.

3. The complainant examined Dr. M.S.Tina as CW-1, who proved on record photocopy of x-ray register Ex. CW-1-A, HC Charan Singh as CW-2, who proved attested photocopy of FIR No. 54 dated 05.06.2010 Ex. CW-2/A, Dr. Jasdeep Singh, Medical Officer/PG at Government Medical college and Rajindera Hospital, Patiala CW-3, who proved on record attested copy of MLR of Mohinder Singh as Ex.CW-3/A, pictorial diagram Ex.CW-3/B, copy of supplementary reports of Mohinder Singh Ex.CW-3/C and Ex.CW-3/D, attested copy of MLR of Dulla Singh, Ex.CW-3/E, pictorial diagram Ex.CW-3/F. Mohinder Singh/complainant himself stepped into witness box as CW-4 and proved complaint Ex.CW-4/A and closed his Pre charge evidence.

4. From the perusal of the Pre-charge evidence led by complainant as well as documents appended thereto and other material placed on the

record, a *prima-facie* case for commission of offences punishable under Sections 326, 324, 323, 34 of IPC was made out against the accused persons. Consequently, charge under the said sections was framed against the accused, to which accused did not plead guilty and claimed trial.

5. Mohinder Singh/complainant CW-1 was cross-examined by learned counsel for the accused and, thereafter, he gave up witness Dulla Singh as being won over by the accused and closed his after charge evidence.

6. Statements of accused under Section 313 Cr.P.C. were recorded and entire incriminating evidence was put to the accused wherein they pleaded false implication and innocence. Accused Ramesh Kumar @ Kala and Goru took the plea that accused Ramesh Kumar was working in military dairy farm and he was supervising the cultivation department. Mohinder Singh was penalized as his cattle used to destroy fodder sown by the military farm department and due to this reason, the complainant had falsely implicated them. Ramesh Kumar took the plea that he was not present on duty in dairy farm department. Goru also took plea that he was not present in Ferozepur and was in hotel, at Ludhiana on that day. As per the inquiry conducted by SP(H) of Police, they both were found innocent. Accused Gurcharan Singh and Bhupinder Singh took their separate pleas that they were innocent and falsely implicated because a case under Sections 326, 324, 323, 34 IPC was registered against Binder Singh son of Dara Singh, brother of complainant-Mohinder Singh at Police Station Sadar Ferozepur vide FIR No. 121 dated 26.05.2007 on the statement of Lakhwinder Singh son of Gurcharan Singh and in order to pressurize them to effect compromise in FIR No. 121 dated 26.05.2007, he made a false story and implicated them in this case. The accused opted to lead defence evidence

and examined four witnesses in their defence.

7. After going through the evidence, the trial Court had examined medical evidence in the form of Dr. M.S.Tina CW-1, who proved grievous injury on the nasal bone of the complainant. The complainant had examined Dulla Singh who as per the complainant, was injured at the time of incidence. He was given up by the complainant stating that he was won over by the accused. No attempt was made by the complainant to procure his presence. Dulla Singh was the material evidence who had sustained injuries and whose MLR was also proved. He was not declared hostile but was simply given up. As per the version given by the complainant/CW-4, he gave the name of owner of juice shop as Raju but he did not choose to examine him. Since his testimony being neutral and unbiased would have been most valuable for the case of the complainant. During cross-examination, complainant also stated that there were few persons drinking juice at that time but he did not examine any such person. There was no admission record to prove that the complainant remained admitted in hospital for 6-7 days. The accused examined Dr. Vanita Bhullar, Medical Officer, Ferozeshah as DW-4 and she proved Medical Board opinion about the nature of injury No. 1. The medical board was constituted on the directions of SMO, Civil Hospital, Ferozepur. As per the report Ex.DW-4/A, possibility of injury No. 1 having suffered by friendly hand could not be ruled out. The findings of the said report was never challenged by the complainant and no suggestion/question was made to DW-4 Dr. Vanita Bhullar during her cross-examination in that regard even. The trial Court finally accepted the medical board opinion over the findings of CW-1 Dr. M.S.Tinna and Dr. Jasdeep Singh CW-3 that the nature of injury No. 1 could be suffered from a friendly hand and other injuries were simple in

nature. Further, Sh. Surjit Singh, SSP Ludhiana was examined as DW-3, who enquired the matter and found the allegations in FIR as false as per the enquiry report Ex.D-1. He further found that there was an FIR registered by the brother of the complainant against the son of the accused for having caused him injuries and the case was pending. He found that false case was lodged to have compromise in that case. He also found that accused Ramesh was found to be at his work place, accused Gurcharan Singh at shop of one Balkar Singh, accused Gora at hostel in Ludhiana and accused Bhupinder at village in Tehsil Zira. During his cross-examination, no questions were asked to him to create dent in his investigation part. Thus, his findings in his report Ex.D-1 were sufficient to create doubts in the version of the complainant and the accused were acquitted.

8. The findings of the trial Court do not require any interference as the acquittal is based by accepting enquiry report Ex.D-1 and the version given by the medical board which was proved by DW-4 Dr. Vanita Bhullar that the injury No. 1 could have been suffered from a friendly hand.

9. Hence, appeal is dismissed being devoid of any merit.

10. Pending application, if any, stands dismissed.

(RITU BAHRI)
JUDGE

18.07.2023
Divyanshi

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No