

227 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Decided on : 04.05.2023

CRA-S-4900-SB-2014

Gurdeep Singh

Versus

..... Appellant

State of Punjab

..... Respondent

CRA-S-5226-SB-2014

Baldev Singh @ Dev

Versus

..... Appellant

State of Punjab

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. A.K.Walia, Advocate
for the appellant in CRA-S-4900-SB-2014.

Mr. P.K.S.Phoolka, Advocate
for the appellant in CRA-S-5226-SB-2014.

Mr. Amit Rana, Sr. DAG, Punjab.

Manjari Nehru Kaul, J.(Oral)

1. This order shall dispose of above said criminal appeals i.e. CRA-S-4900-SB-2014 and CRA-S-5226-SB-2014 as both of them have arisen out of common judgment of conviction and order of sentence dated 31.10.2014 passed by Addl. Sessions Judge, Fast Track Court, Bathinda. Brief facts of the case are taken from CRA-S-4900-SB-2014.
2. The appellant(s) is/are impugning the judgment of conviction and order of sentence dated 31.10.2014 passed by Addl. Sessions Judge, Fast

Track Court, Bathinda whereby he/they was/were convicted and sentenced as under:

Name of accused	Under Section	Sentence awarded	Fine imposed	In default of payment of fine
Gurdeep Singh	307 r.w.s. 120-B IPC	RI for three years	Rs.2000/-	RI for two months
	225 r.w.s. 120-B IPC	RI for one year	Rs.500/-	RI for two weeks
	186 r.w.s. 120-B IPC	RI for two months	Rs.200/-	RI for one week
	332 r.w.s. 120-B IPC	RI for two years	Rs.1500/-	RI for 1½ months
	353 r.w.s. 120-B IPC	RI for 1½ years	Rs.1000/-	RI for one month
	120-B IPC	RI for three years	Rs.2000/-	RI for two months
Baldev Singh	307 IPC	RI for three years	Rs.2000/-	RI for two months
	225 IPC	RI for one year	Rs.500/-	RI for two weeks
	186 r.w.s. 120-B IPC	RI for two months	Rs.200/-	RI for one week
	332 r.w.s. 120-B IPC	RI for two years	Rs.1500/-	RI for 1½ months
	353 r.w.s. 120-B IPC	RI for 1½ years	Rs.1000/-	RI for one month
	120-B IPC	RI for three years	Rs.2000/-	RI for two months

All the sentences were ordered to run concurrently.

3. The case of the prosecution in a nutshell may be noticed as thus; on 30.11.2010, SHO, Police Station City Rampura received information qua the admission of HC Harjit Singh along with another police official in Civil Hospital, Rampura, in an injured condition. Thereafter, SHO along with other police officials on reaching Civil Hospital, Rampura, recorded the

statement of injured HC Harjit Singh (hereinafter referred to as complainant), to the effect that on 30.11.2010 when he along with HC Hardial Singh, after producing undertrial Kuldeep Singh, in the Court at Talwandi Sabo, in some Court proceedings, were returning back to Ludhiana Jail, appellant Gurdeep Singh, who was Assistant Superintendent of Jail, was also present in the Court complex, insisted that since one vehicle i.e. Tata Qualis bearing RC No.PB-19L-8750 (hereinafter referred to as 'vehicle'), which was parked in front of the main gate of Court Complex at Talwandi Sabo, belonged to an acquaintance of his, and he would ask its driver to give them a lift upto Barnala. Despite complainant expressing his reluctance, appellant Gurdeep Singh persuaded him and HC Hardial Singh to board the vehicle along with undertrial Kuldeep Singh. While appellant Gurdeep Singh sat on the front seat, next to the driver, complainant along with undertrial Kuldeep Singh and HC Hardial Singh sat in the middle seat of the vehicle. Two unturbaned youths, in the age group of 20-25 years, were already seated on the rear seat of the vehicle. Appellant Gurdeep Singh seemed to be well acquainted with the driver, as well as the other two unturbaned youths sitting behind the complainant as was he talking to them and addressing one of them as Maan Singh @ Mana. When the vehicle alongwith all the occupants reached Kutiwal village, appellant Gurdeep Singh asked the driver of the vehicle to stop as he wanted to answer the call of nature. As soon as the vehicle stopped, the two unturbaned youths sitting behind the complainant threw red chilly powder into the eyes of both the complainant and HC Hardial Singh.

One of the youths, thereafter, inflicted a knife blow on the shoulder of HC Hardial Singh. The other unturbaned youth picked up a kirpan, which was lying near his feet and attacked the complainant on his head. Though the complainant tried to shield himself by taking out his carbine, however he still received a kirpan injury on his head. After attacking the complainant, the unturbaned youths tried to facilitate the escape of undertrial Kuldeep Singh, who too tried to flee. However, their attempt was foiled as undertrial Kuldeep Singh was handcuffed and chained to the belt of the complainant. A hue and cry was raised by the complainant, which attracted the public to the spot. The two assailants along with appellant Gurdeep Singh however, managed to flee from the spot. The complainant alleged that all the accused including undertrial Kuldeep Singh were hand in glove and had conspired to commit the crime in question. The complainant as well as injured HC Hardial Singh were removed to the Civil Hospital, Rampura where they were medico-legally examined. Consequently, FIR No.65 for offences under Sections 307, 353, 332, 225, 186, 120-B IPC and Section 25 of Arms Act was registered at P.S. Ballianwali on 30.11.2010. Investigation was carried out leading to the presentation of challan before the Court concerned only against accused Kuldeep Singh and Baldev Singh @ Dev. Accused Maan Singh @ Mana was declared a proclaimed offender. During investigation, DSP, Circle Maur declared appellant Gurdeep Singh innocent. On the arrest of accused Maan Singh @ Mana, a supplementary challan was presented against him and all the accused were put to trial. During trial, an application under Section 319

Cr.PC to summon appellant Gurdeep Singh as an additional accused was moved, which was allowed vide order dated 06.07.2012. The prosecution examined as many as 15 witnesses. The accused when examined under Section 313 Cr.PC, pleaded innocence and false implication.

4. Accused Kuldeep Singh stated that he had not tried to flee away from the custody of the police. Rather some unidentified persons had attacked the vehicle in which he along with the police officials was travelling, which resulted in the police officials as well as him receiving injuries.

Appellant-accused Baldev Singh @ Dev denied being present in the vehicle and stated that he was at his house when the occurrence in question took place. He further submitted that neither did he know the co-accused nor did he have any relations, whatsoever, with them.

Appellant-accused Gurdeep Singh denied the allegations and stated that while he was waiting for a bus at Talwandi Sabo, where he had gone in connection with some Court proceedings, the complainant came to him and insisted that they take a lift in the vehicle, which was parked in the Court premises. He refused to accompany the complainant, however, he was pressurized by the complainant to accompany them in the vehicle. He denied any acquaintance with the other accused. He stated that in fact some unidentified persons had attacked the vehicle to facilitate the escape of accused Kuldeep Singh. When the vehicle was stopped by the unidentified persons, he ran away towards the nearby houses for help.

Accused Maan Singh @ Mana stated that it was a case of false implication.

5. The Trial Court on the basis of material and other evidence led by the prosecution, convicted and sentenced the appellants as already detailed in the earlier part of this order.

6. Learned counsel for the appellant Baldev Singh @ Dev has *inter alia* challenged the impugned judgment of conviction on the following grounds:

- (i) That the Courts had failed to appreciate the evidence led in its right perspective and also ignored major discrepancies and contradictions in the statements of the prosecution witnesses, which created a serious dent in the case of the prosecution.
- (ii) That Balwinder Singh (PW-10), driver of the vehicle and one of the star witnesses had failed to support the case of prosecution.
- (iii) That PW-1 HC Hardial Singh failed to identify the appellant and identified only co-accused Kuldeep Singh.
- (iv) That the testimonies of complainant, HC Harjit Singh (PW-2) and HC Hardial Singh (PW-1) were at variance with each other.

7. Learned counsel for the appellant Gurdeep Singh has challenged the impugned judgment on the following grounds:

- (i) That it was a case of false implication of the appellant inasmuch as there was no cogent evidence led to link him with the alleged occurrence much less with the other co-accused, who allegedly attacked the complainant.
- (ii) That the driver of the vehicle Balwinder Singh (PW-10), who was a material witness, did not support the case of the prosecution, which without doubt, created a serious dent in the truthfulness of the prosecution version.
- (iii) That a detailed inquiry was carried out by DSP, Maur, who rightly found the appellant innocent during investigation.

It was further vehemently argued by learned counsel for the appellant Gurdeep Singh that it was a matter of record that the appellant Gurdeep Singh had gone to the Courts at Talwandi Sabo for some official work and hence, there was no question of he conniving with the co-accused, much less, facilitating the escape of accused Kuldeep Singh.

8. Heard learned counsel for the parties and perused the relevant material.

9. The complainant -PW-2 Harjit Singh, admittedly is a stamped witness and there is nothing on record to even remotely suggest that he could have had any motive to implicate the appellants in a false case. Merely because the driver of the vehicle, PW-10 Balwinder Singh, did not support the case of the prosecution and turned hostile would be of no consequence and would not in any manner create any dent in the truthfulness of the prosecution

case. The complainant stood his ground during trial by identifying appellant Baldev Singh @ Dev as one of the two persons sitting behind in the vehicle, who along with co-accused Manna Singh threw chilly powder in his eyes as well as in the eyes of HC Hardial Singh and inflicted kirpan blow on his person. The conduct of appellant Gurdeep Singh as well as the circumstances, whether taken collectively or in isolation, conclusively leads to no other hypothesis but one that he was the brain behind the drama, which was enacted to facilitate the escape of undertrial accused Kuldeep Singh. It may also be relevant to notice and observe here that strangely, appellant Gurdeep Singh did not suffer any injury much less a scratch on his person when he rushed out of the vehicle to seek help, from the people living in the vicinity of the place of occurrence. No doubt, PW-1 HC Hardial Singh, during his deposition, failed to identify the accused in Court, however, this yet again would be of no consequence in the light of the consistent testimony of PW-2 HC Harjit Singh, complainant, who as already noticed, gave a vivid account of the entire sequence of events leading to the occurrence in question. A perusal of the deposition of the complainant clearly reveals that his testimony finds due corroboration on each and every material aspect of the prosecution case. Furthermore, though PW-1 HC Hardial Singh failed to identify the accused in the Court, however, he did not dispute that on the fateful day, when the occurrence in question took place, he was indeed travelling with complainant PW-2 HC Harjit Singh along with appellant Gurdeep Singh, in the vehicle in question.

This Court has no hesitation to observe that the reasoning adopted by the learned trial Court while passing the impugned judgment is based on sound appreciation of evidence. It stands established on record that the appellants were active participants in the crime in question. Appellant Gurdeep Singh knew the accused, who were sitting on the rear seat, and who in turn attempted to free co-accused Kuldeep Singh, while he was being escorted by the complainant and HC Hardial Singh back to Ludhiana Jail from Talwandi Sabo.

10. On minute scrutiny of the evidence led by the prosecution coupled with the other circumstances on record, this Court does not find any infirmity much less any illegality in the impugned judgment. Accordingly, the judgment of conviction and order of sentence passed by the Court below is upheld.

11. At this stage, a prayer has been made by the learned counsel for the appellant Gurdeep Singh, to give him the benefit of probation.

The prayer of the appellant Gurdeep Singh to be released on probation deserves to be declined. The appellant- Gurdeep Singh does not deserve the concession of probation as being a police official, he betrayed the trust reposed in him in the discharge of his official duties, by conniving with the accused. Furthermore, if one goes by the sequence of events right from the time when the appellant Gurdeep Singh pressurized the complainant and HC Hardial Singh to travel in the vehicle, it stands established that he was hand in glove with the co-accused. It cannot also be overlooked that being a

superior officer of the complainant and HC Hardial Singh, appellant Gurdeep Singh was expected to have full sense of responsibility in his behaviour and conduct. His plea that he sat in the vehicle on account of the pressure exerted on him by the complainant and PW-1 HC Haridal Singh, is nothing but a plea, which deserves to be rejected with contempt.

The appeal(s) stand/s dismissed.

04.05.2023
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(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No