

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-1003-MA of 2017

Date of decision : March 03, 2023

SHARANDEEP SINGH

....APPLICANT

VERSUS

STATE OF PUNJAB AND ANOTHER

....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE KULDEEP TIWARI**

Present : Mr. HPS Ghuman, Advocate for the applicant

Ms. Monika Jalota, Senior Deputy Advocate General,
Punjab, for respondent No. 1-State.

None for respondent No. 2

KULDEEP TIWARI,J.

1. The instant application for grant of leave to appeal has been filed against the order of acquittal dated 30.11.2016 passed by learned Sessions Judge, Fatehgarh Sahib in case FIR No. 92 dated 31.7.2015, Under Section 307 IPC, Police Station Amloh, whereby accused-respondent No. 2 has been acquitted from the charges framed under Section 307 IPC.

PROSECUTION STORY

2. On 26.7.2015, an information was received in Police Station Amloh from Civil Hospital, Amloh, regarding the admission of one Sharandeep Singh (complainant) along with MLR. In response to

which, ASI Avtar Singh PW13 went to Civil Hospital and submitted an application seeking opinion of doctor regarding fitness of the injured. However, it was reported by the doctor that the patient has been referred to Rajindra Hospital, Patiala. On 31.7.2015, when ASI Avtar Singh along with other police officials were present near Gobindgarh Chowk, Amloh, complainant injured Sharandeep Singh (PW8) met the police party and made a statement (Ex. P17). On the basis of that statement, the present FIR was registered against accused-respondent no. 2. The contents of FIR read as under:-

“Statement of Sharandeep Singh son of Gurcharan Singh caste Ramdasia resident of village Khanyan, Police Station Amloh, District Fatehgarh Sahib aged about 22 years. It is submitted that I am resident of above said address. I am working as helper privately with Veterinary Doctor, Harjit Singh resident of village Ladpur. I used to go to doctor at 8.00 AM, in the morning and after finishing the work, I came to my house in the evening. I have kept one Bajaj Chetak bearing registration no. PB-11-W-1072 for visiting the doctor. On 25.7.2015 on Saturday, when I started on my above said scooter to my village Khanyan via Shamshpur, Lakha Singh Wala, Chehlan, then I reached near the house of Harchand Singh situated $\frac{3}{4}$ kilometer distance from cremation ground of Lakha Singh Wala from Shamshpur, it was about 7.15 P.M., one white coloured Zen Car bearing registration no. CH-01-Z-4469 crossed my scooter. I noticed that the said car is being driven by Hardev Singh son of Malkit

Singh of my village, caste Ramdasia resident of village Khanyan, who after crossing his car from my scooter slowed down his car. I again crossed my scooter from car, then Hardev Singh above said crossed me after accelerating his car. Then, I took it on kacha passage of my side. After crossing my scooter, he again slowed down his car and my scooter crossed him. When I reached on kacha berm leading to motor of Harchand Singh, then Hardev Singh after accelerating his car straightway struck the same on rear portion of my scooter and the car dragged me and my scooter at a distance of 35-40 ft. I and my scooter fell on the right side of the patri and car went into the paddy fields. My scooter was badly damaged and I received injuries on my head and multiple injuries on other parts of body. Above said Hardev Singh intentionally struck his car in my scooter, in order to kill me. Many passer byes gathered at the spot and some of my known person telephonically informed my uncle Bhupinder Singh son of Piara Singh and after some time my uncle Bhupinder Singh sent Ravi son of Amrik Singh at the spot, who got me admitted in Civil Hospital, Amloh. On 26.7.2015 doctor had referred me to Rajindra Hospital, Patiala, from where I was discharged on 27.7.2015. Today, I was going to inform about this incident to the police station, then you alongwith police party met at Gobindgarh Chowk Amloh. I got recorded my statement to you, heard and the same is correct. Necessary legal action be taken against Hardev Singh above said.”

3. Thereafter, the investigation was carried out, rough site plan was prepared, car bearing registration No. CH-01-Z-4469 was taken into possession vide recovery memo Ex. P/19, scooter belonging to the victim/complainant bearing registration No. PB-11-W-1072 was also taken into possession vide recovery memo Ex. P/18. Both the vehicles were mechanically examined on 4.8.2015. On 20.8.2015, accused-respondent No. 2 was joined into investigations and he produced the registration certificate with regard to the recovered car which was taken into possession vide recovery memo Ex. P45. Medical record of the injured was obtained from the concerned hospital and after recording the statements of witnesses under Section 161 Cr.P.C., challan was prepared and through Station House Officer, same was presented before the concerned Illaqa Magistrate on 22.1.2016.

TRIAL COURT PROCEEDINGS

4. Finding the case exclusively triable by the court of Sessions, the learned Judicial Magistrate Ist Class, Amloh committed the case to the court of Sessions vide order committal order dated 1.2.2016. The learned trial court thereafter, framed charges against accused-respondent no. 2 under Section 307 IPC vide order dated 25.2.2016. The accused did not plead guilty and claimed trial, upon which the prosecution, in order to substantiate its case, examined as many as 13 witnesses. However, the defence did not lead any evidence. The learned trial court, considering the material improvement in the statement of the complainant, medical evidence and delay in lodging

the FIR, acquitted the respondent-accused from the charge framed against him.

SUBMISSIONS BY COUNSEL FOR THE APPLICANT

5. Learned counsel for the applicant vehemently argued that the complainant who is injured, stepped into the witness box as PW8 and has proved the case of the prosecution beyond reasonable doubt. There was no reason to falsely implicate the accused-respondent no. 2. It was further argued that it was accused-respondent no. 2 who intentionally struck his car against the scooter of the complainant because he organized a *Jagrata* to be held on 28.2.2015 near the house of the accused to which the accused was objecting. The motive was duly proved by PW5 Bhupinder Singh, PW6 Bhag Singh and PW9 Ravi Singh. It was submitted that the trial court, despite there being enough cogent and trustworthy evidence, has not appreciated the evidence in its right perspective and erroneously acquitted the accused-respondent no. 2. Therefore, pleads interference by this Court.

6. We have examined the entire trial court records. However, we are unable to find any reason to interfere with the well reasoned and legal order of acquittal passed by the learned Sessions Judge, Fatehgarh Sahib.

REASONS

7. The case set up by the prosecution is that on 25.7.2015 at

about 7.15 PM, the accused voluntarily struck his Zen car against the scooter of the complainant-victim with the intention to kill him and he suffered serious injuries in this incident. The prosecution has examined Dr. Jaideep Singh, Medical Officer, Community Health Centre, Amloh, as PW7. According to him, the complainant-injured was admitted by one Ravi Singh PW9 with the alleged history of **road side accident** and he found the following injuries:-

1. *2 cm x .3 cm lacerated wound 3 cm above left eye brows on lateral aspect. Fresh bleeding was present.*
2. *3 cm x .3 cm lacerated wound just below lower eyelid. Fresh bleeding was present.*
3. *2 cm x .5 cm lacerated wound on occipital injury of scalp. Fresh bleeding was present. X ray Skull and CT Head was advised.*
4. *2 cm x 1 cm reddish abrasion on forehead on right side.*
5. *4 cm x 2 cm reddish abrasion on ankle of right mandible.*
6. *8 cm x 12 cm x 6 cm triangular reddish abrasion on back of right forearm elbow joint.*
7. *3 cm x 2 cm reddish abrasion over right deltoid part of shoulder.*
8. *3 cm x 2 cm reddish abrasion over left Patella."*

8. The kind of weapon, was declared by the doctor, as blunt and all the injuries, on examination of CT scan report, were declared as simple in nature. Further, the prosecution examined PW11 Dr. Sonika Jha, Junior Resident, Department of Surgery, Rajindra Hospital, Patiala, who stated that on 26.7.2015, the complainant was admitted in the hospital with the alleged history of **road side accident**. According

to her, the patient was conscious, alert, cooperative and well oriented to time and place and he was discharged on the next day i.e. 27.7.2015 as he left the hospital against the medical advice.

9. Two important observations transpire from the testimonies of the doctors (supra); firstly, that the patient was admitted by PW9 Ravi Singh stating it to be a case of **road side accident** and not a case of assault. Secondly, that the complainant suffered simple injuries and he was conscious, alert, cooperative and well oriented to time and place. Now, in view of the above medical record, let us examine the ocular testimony as led by the prosecution to prove its case against the accused-respondent. The vital and most important star witness, around whom, the entire story revolves is the injured complainant who stepped into witness box as PW8. He supported the prosecution version and narrated that on the fateful day, at about 7.15 PM, Hardev Singh accused came from the side of village Shamashpur on his car and overtook his scooter and stopped his car in front of his scooter. He saved himself and crossed the car of the accused. However, the accused struck his car against his scooter and dragged his scooter with his car upto the distance of 40-45 ft. Thereafter, the car of the accused went out of the control and turned towards the paddy fields. He regained conscious after 10 minutes and thereafter, Ravi Singh PW9 got him admitted to Civil Hospital, Amloh and thereafter to Rajindra Hospital, Patiala. He was put to cross-examination by the defence and during cross-examination, he was confronted to the extent

that it was never recorded by him during his statement made before the police that Hardev Singh overtook his scooter twice. The relevant extract of the cross-examination read as under:-

“It was got recorded by me in my statement that Hardev Singh overtook my scooter, but it was not recorded by me that Hardev Singh by overtaking my scooter stopped his car in my statement Ex.P-17. It was got recorded by me in my statement Ex.P-17 that Hardev Singh overtook my scooter twice. It was not recorded by me in my statement Ex.P-17, that I became unconscious.”

10. Counsel for the defence put specific defence that one Bhagwan Singh, paternal uncle of complainant contested the election of Sarpanch and he suffered defeat in that election and he admitted during cross-examination that the family members of Hardev Singh did not caste their votes to Bhagwan Singh and under the influence of Bhagwan Singh, he has falsely implicated the present accused. The complainant specifically denied all these allegations. Apart from the complainant, there was no other eye witness. The other witness i.e. PW5 Bhupinder Singh, who is close relative of complainant, was examined to prove the motive. As per this witness, Sharandeep Singh-complainant was organizing a Jagrata in village Khanyan and Hardev Singh accused was objecting for the same. Due to that, earlier also altercation took place between Hardev Singh and Sharandeep Singh. Hardev Singh attempted to kill Sharandeep Singh and Gurcharan Singh

(brother of Hardev Singh accused) also threatened Sharandeep Singh. In cross-examination, he categorically admitted that he has not seen the alleged occurrence and he also signed the MLR of Sharandeep Singh wherein it was disclosed that Sharandeep Singh suffered injuries in **road side accident**. In the same line, Bhag Singh was examined as PW6, who was also not the witness of the occurrence, however, examined by the prosecution to prove the motive, he has stated in the line of PW6 Bhag Singh in the same way. PW9 Ravi Singh who got admitted the injured complainant to the hospital was also examined to prove the motive. In cross-examination, he categorically admitted that he was not present at the spot at the time of alleged accident. Since none of the three witnesses were present on the spot at the time of alleged accident, their testimonies are of no significance, except in order to establish the alleged motive attributed to the accused.

11. Now the most important aspect which needs our consideration is the medical evidence and the ocular testimony of the sole injured eye witness PW8 Sharandeep Singh. As already recorded above, the injured was admitted in the hospital with an alleged history of **road side accident**. It has also come on record that he was conscious, alert, cooperative and well oriented to time and place and therefore, had he suffered the injuries as alleged by him, he would not have informed the doctor, who medically examined him, that he suffered injuries in a **road side accident**. Secondly, the date of occurrence in the present case, according to the prosecution was

25.7.2015, whereas the present FIR was registered on 31.7.2015. It was not the case of the prosecution that the injured eye witness was not fit to make a statement. As recorded earlier, he was very much conscious and alert. No plausible explanation is coming forth for delay in lodging the present FIR and it seems that the present FIR has been registered after due deliberations and consultations. This causes serious doubt to the prosecution case.

12. As we have observed above, the complainant made material improvement in his version to the extent that the accused-respondent overtook his scooter twice. This improvement, in fact, is a material contradiction and therefore, leaving space for doubt in his testimony. We are unable to find the testimony of complainant-injured credible enough to convert an order of acquittal into a verdict of conviction, especially when the same do not find support from medical evidence on record.

13. In view of the above, we find no merit in the present application, therefore, the same is dismissed. The prayer to grant leave to appeal is declined and the impugned order of acquittal rendered by the learned Sessions Judge, Fatehgarh Sahib is hereby upheld.

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14. The case property, if any, be dealt with in accordance with law. The record be forthwith sent down.

(SURESHWAR THAKUR
JUDGE

(KULDEEP TIWARI)
JUDGE

March 03, 2023
'dalbir'

<i>Whether speaking/reasoned ?</i>	<i>Yes/No</i>
<i>Whether Reportable ?</i>	<i>Yes/No</i>