

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

217

CRA-AS-91-2020

Date of decision: 11.01.2023

Umesh Kumar

.....Appellant

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ashit Malik, Advocate for the appellant.

MANJARI NEHRU KAUL, J. (ORAL)

The appellant/complainant is impugning the judgment dated 24.01.2020 passed by learned Additional Sessions Judge, Mansa vide which respondents No.2 to 7 were acquitted of the charges under Sections 364, 365, 323 and 149 of the IPC in case FIR No.61 dated 24.08.2014 registered at Police Station Budhlada, District Mansa.

The case set up by the prosecution may be noticed as thus. The appellant/complainant was working with the Punjab Police. Since his family had close relations with Kiranjit Kaur, he used to often visit her house. On 23.08.2014, he went to the house of said Kiranjit Kaur. While he was still outside of said Kiranjit Kaur's house, at about 08:30 P.M., all the private respondents/accused descended there in their alto car. After raising a *lalkara* all the accused forcibly bundled him in their car and took him to the house of accused/respondent No.2 Naib Singh where he was tied to a cultivator. Thereafter, he was subjected to verbal abuse as well as physically assaulted. It was only when Kiranjit Kaur arrived at the house of accused/respondent No.2 Naib Singh and pleaded with all the accused to spare him that the accused left the place.

Kiranjit Kaur then untied the arms of the appellant from the cultivator and shifted him to the hospital.

Learned counsel while impugning the judgment passed by the Trial Court has submitted that the Trial Court failed to appreciate that there was enough corroborative medical evidence on record which was erroneously ignored by the Trial Court while acquitting the private respondents/accused. It was further submitted that since the appellant/complainant had been forcibly bundled into the car of the accused with an intention to murder him, the essential ingredients to attract the mischief of Sections 364, 368 and 342 of the IPC were fulfilled but the Trial Court yet again erred by not appreciating the evidence led in its correct perspective.

I have heard learned counsel and perused the relevant material on record.

This Court does not find any illegality much less perversity in the impugned judgment for the reasons to follow:-

As per the prosecution version, Kiranjit Kaur who stepped into the witness box as PW2, was a witness to the occurrence in question as she was present outside her house when the appellant/complainant Umesh Kumar (PW1) was bundled into the car by the accused and still further, it was none other than PW2 Kiranjit Kaur, who saved him by going to the house of accused Naib Singh and thereafter shifted him to the hospital. However, her presence at the spot and she being an eye witness to the occurrence in question is clearly shrouded in suspicion. It would be relevant to point out here that admittedly there are material contradictions between the testimonies of

both these witnesses i.e. PW1 Umesh Kumar and PW2 Kiranjit Kaur. PW2 Kiranjit Kaur in her cross-examination admitted that she had suffered a statement Ex.DA/1 on 03.12.2015 before JMIC Mansa to the effect that she was present inside her house when PW1 Umesh Kumar sustained injuries at the hands of the accused persons which is at complete variance with her deposition wherein she stated that she was present outside her house when the appellant/complainant PW1 Umesh Kumar was inflicted injuries by the accused. This without a doubt raises a big question mark about her presence at the place of occurrence and she having witnessed the occurrence.

The motive behind the attack as alleged by PW1 Umesh Kumar was dispute pertaining to a plot of land. However, during his deposition PW1 Umesh Kumar admitted that the plot in dispute already stood sold by him to PW2 Kiranjit Kaur vide registered sale deed dated 718 on 06.06.2014 and still further he did not own any other property at village Daatewas after the sale of the said plot. PW1 Umesh Kumar also admitted that he was not related to PW2 Kiranjit Kaur either by blood or otherwise. Hence, the motive to commit the crime as alleged by PW1 Umesh Kumar i.e. a property dispute between the parties does not come across as being believable.

Furthermore, even the factum of threats being extended to PW1 Umesh Kumar for withdrawal of FIR No.29 dated 07.05.2014 under Section 447/511 IPC registered at Police Station Sadar Budhlada against the accused stands belied in the light of the acquittal of the accused in the said case.

Coming next to the injuries sustained, PW1 Umesh Kumar

in his complaint, he stated that he had received as many as 07 injuries on his person at the hands of the accused person. However, the medical evidence on record does not corroborate his testimony as PW3 Dr. Pankaj Kumar found only two injuries on his person which yet again were superficial in nature. It is also a matter of record that no injury much less marks of injury were found on the person/arms of PW1 Umesh Kumar during his medico legal examination which yet again casts a shadow of doubt qua the version brought forth by him that the accused had tied him to a cultivator and physically assaulted him. PW3 Dr. Pankaj Kumar in his cross-examination categorically stated that the age of the injuries No.2 and 6 being beyond 12 hours could not be ruled out. Needless to add, this opinion of the doctor creates a further huge dent in the case of the prosecution as the occurrence in question had allegedly taken place at about 08:00 P.M. on 23.08.2014 and the complainant was medico legally examined by PW3 Dr. Pankaj Kumar just 04 hours after the occurrence in question at 12:00 A.M.

As an upshot to the above discussion, this Court does not find any error in the impugned judgment which deserves to be upheld. Accordingly, the instant appeal being devoid of any merit is dismissed.

11.01.2023

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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