

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

CRR No.1966 of 2014
Date of decision: 3rd May, 2023

Nazar Singh

... Petitioner

Versus

Ginder Singh & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Nitin Jain, Advocate for the petitioner.

None for respondents No.1 to 4.

Mr. Amit Rana, Sr. Deputy Advocate General, Punjab
for the respondent No.5/State.

MANJARI NEHRU KAUL, J.

The revisionist is impugning the judgment dated 22.02.2014 passed by the learned Additional Sessions Judge, Sangrur whereby the judgment dated 06.03.2012 passed by the learned Chief Judicial Magistrate, Sangrur was reversed and all the four accused were acquitted.

The prosecution case in brief may be noticed as thus:

On 29.03.2007, a ruqa was received by the police from Civil Hospital, Sangrur qua the admission of injured Nazar Singh son of Kaka Singh (complainant). After the doctor declared the injured fit for recording his statement, Nazar Singh got his statement Ex.DC recorded before ASI Darshan Singh, which led to the registration of

FIR No.19 dated 04.04.2007 under Sections 325, 323, 149 IPC pertaining to Police Station Longowal, District Sangrur.

On 27.03.2007, at about 7:45 p.m. when the complainant went outside his house, accused Ginder Singh armed with Dang, Prabhu Singh armed with Soti, Jagga Singh alias Jagsir Singh empty handed, Bahadur Singh empty handed and Harpreet Singh (since deceased) empty handed, came near the complainant. Accused Bahadur Singh raised lalkara that complainant Nazar Singh should not be spared and soon thereafter, accused Harpreet Singh and Jagga Singh alias Jagsir Singh caught hold of him from his arms. Accused Ginder Singh gave Dang blow on the left foot of the complainant as a result of which, the latter fell down on the ground. Accused Prabhu Singh gave Soti blow on the back of the complainant. A hue and cry was raised by the complainant. Major Singh, brother of the complainant, who was present near the complainant, also raised a hue and cry. All the accused thereafter, fled away from the spot along with their respective weapons. It was alleged that the motive behind the occurrence was that accused party suspected that the complainant and his brother Major Singh had got registered criminal cases against Harpreet Singh, Bahadur Singh, Prabhu Singh and Jagga Singh alias Jagsir Singh.

After completion of investigation, final report under Section 173 Cr.P.C. was presented against all the accused before the learned trial Court. Since a prima facie case under Section 148, 323,

325, 149 IPC was made out against the accused, charges were accordingly framed against them, to which they pleaded not guilty and claimed trial.

The prosecution examined as many as 6 witnesses, including the complainant, his brother Major Singh and the doctor who medico legally examined the injured.

All the incriminating evidence was put to the accused under Section 313 Cr.P.C. to which they pleaded innocence and false implication. In defence, accused tendered into evidence certified copy of judgment dated 12.09.2009 as Ex.DA, certified copy of complaint titled as ‘Sukhdev Singh vs. Karnail Singh’ as Ex.DB, certified copy of statement of Nazar Singh as Ex.DC, certified copy of report u/s 173 Cr.P.C. as Ex.DD, photocopy of statement of Nazar Singh as Mark-X and thereafter, they closed their evidence.

Learned Chief Judicial Magistrate, Sangrur convicted and sentenced the accused respondents as under:

Sr. No.	Name of convict	Under Section	Sentence
1.	Ginder Singh	148 IPC	To undergo RI for one year and to pay fine of ₹ 500/-. In default thereof, he will further undergo RI for one month.
		323/149 IPC	To undergo RI for six months and to pay fine of ₹ 500/-. In default thereof, he will further undergo RI for one month.
		325 IPC	To undergo RI for two years and to pay fine of ₹ 1000/-. In default thereof, he will further undergo RI for two months.

2.	Prabhu Singh	148 IPC	To undergo RI for one year and to pay fine of ₹ 500/-. In default thereof, he will further undergo RI for one month.
		323/149 IPC	To undergo RI for six months and to pay fine of ₹ 500/-. In default thereof, he will further undergo RI for one month.
3.	Bahadur Singh	148 IPC	To undergo RI for one year and to pay fine of ₹ 500/-. In default thereof, he will further undergo RI for one month.
		323/149 IPC	To undergo RI for six months and to pay fine of ₹ 500/-. In default thereof, he will further undergo RI for one month.
4.	Jagga Singh alias Jagsir Singh	148 IPC	To undergo RI for one year and to pay fine of ₹ 500/-. In default thereof, he will further undergo RI for one month.
		323/149 IPC	To undergo RI for six months and to pay fine of ₹ 500/-. In default thereof, he will further undergo RI for one month.

All the sentenced were ordered to run concurrently.

Learned counsel for the revisionist/petitioners has challenged the impugned judgment passed by the Additional Sessions Judge, Sangrur on the following grounds:

- (i) That no doubt there was a delay of 3-4 days in registration of the FIR, however, it could not, by any stretch of imagination, be termed to be fatal to the case of the prosecution in view of the fact that there was medical evidence to corroborate the injury suffered by the complainant on his left foot.

- (ii) Once the medical evidence corroborated the ocular testimony, the lower appellate Court had clearly erred in reversing the well reasoned judgment and order of conviction passed by the learned trial Court.
- (iii) It was further argued that it was a matter of record that there had been a history of strained relations between the parties, as a result of which the accused were nursing a grudge against the complainant and which was the motive to commit the crime in question.

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

As per the case of the prosecution itself, the occurrence in question took place on 27.03.2007 at about 7:45 p.m. when the complainant was present in the street outside his house. However, it was only on 29.03.2007 i.e. after two days, the complainant was medico-legally examined by PW-2 Dr.Surjeet Singh, who found fracture of the second and third metatarsal bone of the left foot, which injury was opined to be grievous in nature. PW-2 Dr. Surjeet Singh, however deposed during his testimony before the trial Court that the age of the injuries sustained by the complainant was within 12 hours. If that be the case, a big question-mark is indeed raised as to whether the said injury could have been sustained by the complainant on

27.03.2007 at 7:45 p.m., as alleged. Had the occurrence indeed taken place, as alleged, and further more the injury which, as already observed earlier, was a fracture in the foot of the complainant, it is highly improbable that the complainant would not have rushed to the nearest doctor for getting himself medically treated and would have instead gone to the hospital after almost 48 hours. It would also be very interesting to observe here that on the one hand, as per the allegations levelled, the complainant received injuries on his person including the injury on his left foot on 27.03.2007, however, during his deposition he stated that after the occurrence in question, he had gone to the Police Station on 27.03.2007, returned to their house and had not gone to any hospital. This conduct of the complainant, yet again raises eyebrows because it is impossible for any person with fractured metatarsal bones of one of his feet to have been able to walk to the Police Station and thereafter, return to his house and keep silent without getting his injuries treated by any doctor. It would also be worthwhile to refer to the evidence of PW-2 Dr. Surjeet Singh that when the complainant came to him, he was told that the injuries had been sustained by the complainant on 29.03.2007 at 9:00 a.m. In the circumstances, the opinion given by the Doctor PW-2 Surjeet Singh that the age of the injuries was within 12 hours, cannot be doubted at all.

This Court can also not lose sight of the fact that the occurrence in question had taken place in a thickly populated locality

and the least that the complainant could have done was to examine some independent witness in support of his case, which he failed to do.

As a sequel to the above, this Court has no hesitation in holding that the impugned judgment dated 22.02.2014 passed by the learned Additional Sessions Judge, Sangrur deserves to be upheld. The revision being without any merit stands dismissed.

(MANJARI NEHRU KAUL)
JUDGE

May 3, 2023
rps

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