



In the High Court of Punjab and Haryana at Chandigarh

CRA-D-841-DB-2013 (O&M)
Reserved on: 21.11.2024
Date of Decision: 16.12.2024

RajeshAppellant

Versus

State of Haryana and othersRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Aditya Yadav, Advocate
for the appellant.

Mr. Pardeep Prakash Chahar, Sr. DAG, Haryana.

Mr. Anas Ahmed, Advocate (Legal Aid Counsel)
for respondent No. 2.

Mr. Govind Chauhan, Advocate
for respondents No. 4, 5, 6, 12 and 16.

Mr. Aayush Gupta, Advocate
for respondents No. 5, 11, 12 and 16.

Mr. Prince Goyal, Advocate (Legal Aid Counsel)
for respondents No. 3, 7 to 11 and 13 to 15.

SURESHWAR THAKUR, J.

1. The instant appeal is directed against the verdict drawn on 23.3.2013, upon Sessions Case No. 38 of 2012, by the learned Additional Sessions Judge, Jhajjar wherethrough in respect of the charges drawn for the offences punishable under Sections 307, 326, 325, 323, 506, 148 read with Section 149 IPC, he made a verdict of acquittal qua all the accused.

Factual Background

The genesis of the prosecution case, becomes embodied in a



cross case registered against the accused-respondents in appeal FIR, to which Ex. P-3 is assigned. As per the prosecution story, complainant Rajesh Kumar got recorded his statement with the police officer concerned, to the effect that on 17.08.2008 at about 07:00 A.M., when he was standing in front of his house at village Dubaldhan, then accused Raj Karan son of Sumer of the village came there on a bullock-cart and called him with bad names. When the complainant objected over the said act of the accused, thereupon accused started giving beatings to him. He further alleges, that in the meantime, Raj Bala wife of Raj Singh, Dharmender son of Sri Krishan, Asha Ram son of Sri Krishan, Rinku son of Raj Singh, Sonu son of Om Parkash, Ishwar son of Ram Kishan, Hari Ram son of Dariav Singh, Vijay son of Mahla Ram, Vinod son of Prem Singh and Norattan son of Hari Singh, all residents of Village Dubaldhan, armed with deadly weapons, reached at the spot, and, inflicted injuries upon him. Upon raising hues and cries by the complainant, one Mangat son of Rameshwar Dass, Krishan son of Mint Lal, Gajanand son of Lillu Ram, Vijay son of Mint Lal and Ved Parkash son of Rameshwar reached at the spot and saved him from the clutches of accused persons. The complainant further states, that the accused persons had also inflicted injuries to the above-named persons. The accused while leaving the spot also threatened the complainant party with dire consequences.

3. The above statement of the complainant Rajesh was recorded at PGIMS, Rohtak by ASI Bijenderpal on 17.08.2008. An FIR was already registered at Police Station Beri regarding said occurrence on basis of the rival version/statement of Raj Karan (one amongst present accused persons).



Investigation proceedings

4. During the course of investigations, medical report regarding nature of injury on the person of Mangat was collected on 12.11.2008, which revealed that injuries on his person were dangerous to the life. Hence, Section 307 IPC was added. The accused persons were arrested. After conclusion of investigations, the investigating officer concerned, proceeded to institute two reports under Section 173 of the Cr.P.C., before the learned committal Court concerned.

Committal Proceedings

5. Since the offence under Section 307 of the IPC was exclusively triable by the Court of Session, thus, the learned committal Court concerned, through a committal order made on 17.3.2009, hence proceeded to commit the accused to face trial before the Court of Session.

Trial Proceedings

6. The learned trial Judge concerned, after receiving the case for trial, after its becoming committed to him, made an objective analysis of the incriminatory material, adduced before him. Resultantly, he proceeded to draw charges against the accused for the offences punishable under Sections 307, 326, 325, 323, 506, 148 read with Section 149 IPC. The afore drawn charges were put to the accused, to which they pleaded not guilty, and, claimed trial.

7. In proof of its case, the prosecution examined 16 witnesses, and, thereafter the learned Public Prosecutor concerned, closed the prosecution evidence.

8. After the closure of prosecution evidence, the learned trial Judge concerned, drew proceedings, under Section 313 of the Cr.P.C., but



thereins, the accused pleaded innocence, and, claimed false implication. Though, the accused chose to lead evidence in his defence, however, they did not lead any witness into the witness box.

Submissions of the learned counsel for the appellant

9. The learned counsel for the has submitted before this Court, that the reasons assigned by the learned trial Judge concerned, thus for making an order of acquittal, upon the accused are extremely frail, besides are not based upon a sound appreciation of the evidence on record. Therefore, he contends, that the impugned verdict of acquittal be quashed, and, set aside.

Submissions on behalf of the learned counsels for the accused-respondents

10. On the other hand, the learned counsel for the accused-respondents submit, that the verdict of acquittal as has been challenged before this Court, is well merited, thus it does not require any interference being made by this Court.

Inference of this Court

11. Before proceeding to delve into, and, to also make an adjudication, upon the contentions (supra), as became addressed before this Court by the learned counsel for the appellant, and, by the learned counsel for the accused, it is deemed necessary to extract the relevant paragraphs borne in the impugned verdict, wherein, becomes enclosed the reasons for recording the findings of acquittal. The said paragraphs are reproduced hereinafter.

“x x x x

21. Coming to the deposition of prosecution witnesses, there are only three witnesses, i.e. PW-1 Rajesh, PW-2 Mangat Ram and PW-9 Ved Parkash who are the eye-witnesses. All the three also happens to be the injured ones. The deposition of none amongst them tellies with the other as already highlighted by learned defence



counsel. The crux of the deposition of PW1 is that he has not seen any accused causing any injury to any other person of his family, but he was affirm that none from the complainant-side caused any injury to the accused-party. There are fifteen accused persons in the present case whereas PW1 Rajesh has named in his complaint (Exh.PA) only eleven accused persons and not whisper a single word about rest of the accused persons. PW-2 has admitted in very words that by the time he reached at the spot, injuries to all other persons of complainant party has already been caused. PW9 is the most interested witness as he is the author of a previous FIR (Exh.D9) lodged against accused party about two months back. The manner in which PW-2 & PW-9 have deposed merely suggests that, at the maximum, they were simply the curiosity-smitten-spectators when some hotch-potch was happening in the street outside the house of Mint Lal. They have taken one-sided stand and speak only about the injuries of prosecution party and have failed to give any explanation regarding the injuries of accused persons. Either of these two witnesses is telling a lie about the occurrence. if both are not speaking falsely. By construing it on either side, the benefit of this doubt will certainly go to the accused persons.

22. If prosecution admits that accused persons first started giving injuries to Rajesh (PWI) outside his own house while number of his family persons were present inside the house, then it is highly probable of that they all will rebound the attack. Naturally it will give a right of private defence to the complainant party to come in support of Rajesh who in his own house was lacing persons of the accused party. The house of accused persons is at a good distance and when they will came to know that their persons are fighting (or are being beaten) outside the house of opposite party, then everyone from the accused side will naturally draw an impression that more force is required to rescue them and it will certainly result into giving a right of private defence to the accused party to save their persons.

23. Had there been such a number of accused persons ready to cause injuries with deadly weapons with an intention to murder, then injuries on the person of complainant party would have certainly been of different nature and not the superficial abrasions or lacerated wound on the non-vital parts. If a pause is taken here to presume that complainant party has also inflicted injuries in self defence upon the accused persons, but there is no explanation with which weapons they had caused the injuries to the accused party, from where complainant party brought those weapons, which of the person of complainant party caused injury and upon whom of the accused party. During cross-examination none of the eye-witnesses have admitted that he had caused any injury to any of the accused. Exh.D2 to Exh.D7 show an altogether different story as multiple injuries on accused persons have been found mentioned therein.

x x x x



27. *At the cost of repetition, it has to be stated that the prosecution has failed to place the correct facts qua the genesis and the sequence of events in which the incident took place. There are a number of other infirmities also in the prosecution case, as discussed in the preceding paras. Having come to a conclusion that the incident in all probability took place in a manner different than the one suggested by the prosecution, this court is left with no alternative but to give the benefit thereof to the accused persons. Accordingly, accused persons are hereby acquitted from all the charges leveled against them.*

x x x x"

12. Initially, the learned trial Judge concerned, proceeded to disbelieve the testification of PW-1 on the ground, that he had not seen the occurrence, nor obviously he had sighted any accused causing injury(ies) to his injured family members. The further reason, which became assigned by the learned trial Judge concerned, to record a finding of acquittal vis-a-vis the accused, became rested upon the factum, that the said witness had assigned an incriminatory role to about 15 persons, whereas, in his complaint (Ex. PA), the names of only 11 persons become echoed. As such, when there are evident inter se contradictions inter se the supra speakings made by PW-1, with the echoings occurring in Ex. PA, as appertaining to the numbers of the incriminatory participants in the crime event, thereby, the above assigned reasons acquire aggravated strength.

13. Now coming to evaluate the credibility of the testification rendered by PW-2. The fact which leads this Court to dispel the testification of the supra witness becomes generated from the fact, that he has also acquiesced to the suggestion that he had arrived the crime site, thus post the entailment of injuries upon the injured. Therefore, the testification, as became rendered by PW-2 before the learned trial Judge concerned, with echoings vis-a-vis incriminatory participations of the accused concerned,

thus in the crime event, but naturally does not embody the true genesis of the



crime event. Resultantly therebys when the said witness also did not eye witness the occurrence, therebys, the incrimination drawn by him against the accused, thus looses its vigour. Moreover, it is also got to be firmly stated that therebys the said witness has also not only rendered a concocted and premeditated version vis-a-vis the crime event, but also has smothered the true genesis of the crime event, whereupon no credence is required to be assigned to his testification.

14. The deposition of PW-9 was disbelieved by the learned trial Judge concerned, on the ground, that he is an interested witness, given his being the author of a previous FIR (Ex. D9), wherebys but with his rearing an inimicality against the accused, therebys his testification appears to be tainted with a colour of interestedness, besides it is to be construed to be a sequel of his wreaking inimicality against the accused, as arises from his previously lodging an FIR against the accused.

15. The learned trial Judge concerned, also made the above reasons' to record a finding of acquittal against the accused, thus on the further premise, inasmuch as-

(a) That the assault, as became committed by the accused upon the complainant was so committed in the exercise of right of private defence of property and of body.

(b) That there was lack of proper investigations into the crime event by the investigating officer concerned, wherebys there was suppression of the true genesis of the crime incident, whereupon the learned trial Judge concerned, became ultimately led to conclude that benefit of doubt is to be accorded to the accused persons.



therefore, even if some injuries as depicted in the MLRs, to which Ex. P2/A, P2/B, Ex. P2/C and Ex. Ex. P2/D become assigned, became entailed, upon the injured concerned, besides even if the said injuries are grievous in nature, yet in the wake of the supra well made reasons recorded by the learned trial Judge concerned, rather the said injuries are deemed to be incurred by the accused only as a sequel of theirs exercising their right of private defence.

17. An added strength to the supra becomes derived from the fact that a cross-case bearing Sessions Case No. 23 of 2012, became registered against the complainant party by one Raj Karan, who is one of the accused-respondent in the instant appeal. Importantly also since a verdict of acquittal also becomes recorded upon the supra cross-case, registered against the complainant party by one Raj Karan, and, a Criminal Appeal bearing CRA-S-2620-SB-2014 has been preferred thereagainst before this Court at the instance of said Raj Karan.

18. Now since the instant appeal (CRA-D-841-DB-2013) has emerged from a verdict of acquittal becoming made over Session Case No. 38 of 2012, whereons this Court has proceeded to, for supra reasons, affirm the verdict of acquittal, as made thereons by the learned trial Judge concerned. Therefore, since for all the reasons stated in both the appeals (supra), this Court has accepted the exculpatory espousals made by the defence, banked upon theirs respectively well cultivating the plea of exercising their right of private defence, whereby but concomitantly the scuffle which ensued between the warring parties, thus is declared to be a free fight but bereft of one or the other ill espousing the right of private defence.



19. In sequel, to ensure that parity of treatment is assigned to each of the accused, in both the cases (supra), which generated from the same crime event, this Court is of the firm view that but to avoid conflicting judgments, the instant appeal be dismissed, and, that the impugned order of acquittal be maintained and affirmed.

Final order

20. The result of the above discussion, is that, this Court does not find any merit in the instant appeal, and, is constrained to dismiss it. Accordingly, the appeal is dismissed. Consequently, the impugned verdict of acquittal, as made by the learned trial Court concerned, is maintained, and, affirmed. The case property, if any, be dealt with, in accordance with law, but after the expiry of the period of limitation for the filing of an appeal.

21. Records be sent down forthwith.

22. The miscellaneous application(s), if any, is/are also disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

December 16th, 2024
Gurpreet

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