

2024:PHHC:152040-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-2493-2008 (O & M)
Date of decision: 20.11.2024

Lachman Singh

..... Petitioner

V/s

State of Punjab and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Aditya Grover, Advocate,
for the petitioner (Through V.C.).

Mr. Kuljeet Singh, Addl.A.G., Punjab.

Mr. R.M. Sharma, Advocate,
for respondent No.3.

Mr. Ashok Kumar Sama, Advocate,
for respondents No.5 and 6.

JASJIT SINGH BEDI, J.

The present revision petition has been filed against the judgment of acquittal dated 08.09.2008 passed by the Additional Sessions Judge, Patiala.

2. The FIR in the present case came to be registered on 26.06.2005. The judgment of acquittal was passed on 08.09.2008. The present revision petition

dated 03.11.2008 has come up for final hearing now i.e. after a period of almost 19 years having elapsed from the date of the registration of the FIR.

3. The accused Gurmit Singh, Goldi @Harpal Singh, Rana @ Jagwinder Singh, Pritpal Singh, Harpreet Singh @ Pappu and Harchain Singh were sent up by the police of Police Station Julkan to trial under Sections 302, 341, 147 and 148 IPC and Sections 25/27 of the Indian Arms Act.

4. The prosecution case in brief is that on 26.6.2005 Lachman Singh son of Sarwan Singh complainant, resident village Hadana gave a statement before Inspector Gurinder Singh, SHO, Police Station, Julkan Ex.PA wherein he stated that they were 5 brothers and 3 sisters. His brother Kirpal Singh, was a member panchayat. He was working as a labourer and was living separately from them. On 26.6.2005 at about 12.00 at night, his brother Kirpal Singh came to his residence and informed him that he had gone towards the canal minor towards village Naneola because as usual the people broke the bank of the canal minor in the night to fill up water in their paddy crops and due to that, the road of village Pur Mandi had broken and due to this the people had to face problem. He had seen Gurmit Singh son or Sucha Singh, Pritpal Singh son of Sucha Singh, Goldi son of Pritpal Singh, Rana son of Gurmit Singh, Harpreet Singh @ Pappu son of Partap Singh, Chain Singh son of Prem Singh, all residents of village Hadana. Harpreet Singh and Chain Singh were standing there along with spades in order to break the canal minor and when he tried to stop them, they started abusing him and started to pick up a quarrel. Thereafter he (complainant) along with

his brother Kirpal Singh started towards the house of Ex-Sarpanch Jarnail Singh in order to give him information and when they reached near the house of Jarnail Singh son of Charanji Lal "Nungar", then two motor cycles came from behind, one of which was being driven by accused Rana and the second was being driven by Goldy son of Pritpal Singh and two persons each were sitting on the pillion seats of the aforesaid motor cycles. He (complainant) identified all those persons in the light of the electric bulb coming from the house of Jarnail Singh. They stopped their motor cycles and surrounded them. Out of them, Gurmit Singh son of Sucha Singh was armed with a .12 bore gun, Pritpal Singh son of Sucha Singh was armed with a dang while the remaining four accused persons were empty handed. In the mean time accused Harpreet Singh and Goldy gave a "lalkara" to teach a lesson to the comrade regarding stopping them from cutting the canal minor. On this, Rana and Chain Singh accused caught hold of his brother from his arms and accused Harpreet Singh and Goldy both caught his brother from his legs and threw him on the ground. In the mean time, Pritpal Singh accused restrained him (complainant) with the help of a dang and when he started shouting for help, then Pritpal Singh accused stated "what are you seeing" "fire a shot". Then accused Gurmit Singh fired a shot from his .12 bore gun towards Kirpal Singh which hit his brother on the left side of his chest. He raised a raula "Na Marro Na Marro", but all the accused did not listen to him. It was about 12.30 a.m. On hearing the sound of the gun shot and his "raula", the people of the village ran towards the Phirni (periphery).

Upon this all the six persons on seeing the people gathering, ran away from

the spot along with their weapons on their motor cycles. He then saw that his brother Kirpal Singh had succumbed to his injuries at the spot. After leaving Baldev Singh and Karam Chand at the spot in order to guard the dead body of the deceased, he along with Jarnail Singh Sarpanch proceeded towards the police station in order to report the matter, but the police met them on the bridge of the canal minor of village Bhambuan. The motive behind the occurrence was that his brother Kirpal Singh was a Comrade and a member panchayat. He usually used to prohibit the people of the village from stealing the canal water in order to irrigate their crops.

5. Inspector Gurinder Singh then sent this statement of the complainant Ex.PA to the police station after making his endorsement Ex.PA/1 on the basis of which formal FIR Ex.PA/2 was recorded. Then the investigation of this case commenced. Inspector Gurinder Singh reached at the spot and prepared inquest report Ex.PW3/3 on the dead body of the deceased and got conducted autopsy on the dead body of the deceased through written request Ex.PW3/1. He also prepared rough site plan of the spot Ex.PW8/A. He also lifted two empty cartridges of .12 bore gun from the spot and after preparing its parcel with his seal bearing impression GS, took the same into possession vide recovery memo Ex.PW5/A. After postmortem examination, HC Basakha Singh handed over the dead body of Kirpal Singh deceased to his relations against receipt Ex.PW10/A. He also produced one parcel of the pellet and the same was taken into possession by the Investigating Officer vide recovery memo Ex.PW8/B. Blood stained earth was also lifted from the spot by the Investigating Officer which was also

made into a sealed parcel and taken into police possession vide recovery memo Ex.PW5/B. HC Basakha Singh also produced the parcel of clothes of deceased Kirpal Singh and the same was also taken into possession vide recovery memo Ex.PW8/B. HC Basakha Singh also produced another parcel of the clothes of the deceased, duly sealed with the seal of doctor bearing impressions "HKS" and he took the same into possession vide memo ExPW8/C.

6. On appearance of the accused, the copies of the document relied upon by the prosecution were furnished to the accused. Then the case was committed to the court of Session. On appearance of the accused, charge under Sections 148 and 341 IPC was framed against all the accused while charge U/s 302 IPC was frame against Gurmit Singh and U/s 302/149 IPC against the remaining accused. Charge was also framed against Gurmit Singh U/s 27 of the Indian Arms Act. The accused pleaded not guilty and claimed trial.

7. In order to prove its case, the prosecution examined Lachman Singh PW1, Parminder Singh PW2, Harmesh Singh PW3, Dr.HK Singh PW3, (there is no PW4 on the record), ASI Sucha Singh PW5, HC Jaswant Singh PW6, MHC Gurmukh Singh PW7, Gurinder Singh DSP PW8, HC Baijit Singh PW9, HC Basakha Singh PW10, C-II Manjit Singh PW11 and Paramjit Singh Guram draftsman PWI2.

8. The prosecution also relied upon report of the Forensic Science Laboratory regarding the gun and cartridge Ex.PX, forwarding letter Ex.PX/1 and another report regarding the human blood Ex.PY of Forensic

Science Laboratory and forwarding letter Ex.PY/1 and closed the prosecution evidence.

9. In their statements under Section 313 Cr.P.C., the accused denied the allegations of the prosecution and have pleaded their innocence.

Gurmit Singh accused took the plea as under:-

"I am innocent. The case is false one. I have been falsely implicated in this case. In fact no occurrence as alleged ever took place. The present case has been registered against me and other accused on the basis of false and fabricated version. In fact Kirpal Singh was a man of criminal nature having many criminal cases registered against him and was drunkard and was having enmity with various persons. As Such, he was killed by some unidentified person as a measure of blind murder. Even on the day of alleged occurrence neither there was water flowing in the canal minor nor there was electricity supply in the village at the time of the alleged occurrence".

10. Remaining accused also took the plea that they had also been falsely implicated in this case and adopted the same plea as taken by their co-accused Gurmit Singh.

11. The defence examined five witnesses, namely, C-Bhudgir (DW-1), Darshan Singh (DW-2), Kaur Singh (DW-3), Baldev Singh (DW-4) and Shri Kaustubha Sharma (DW-5).

12. Based on the evidence led, while Gurmeet Singh was convicted and sentenced to undergo life imprisonment under Section 302 IPC and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo

RI for six months and to undergo rigorous imprisonment for one year under

Section 27 of the Arms Act and to pay a fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 01 month and respondents No.2 to 6, namely, Goldi alias Harpal Singh, Rana alias Jagwinder Singh, Pritpal Singh, Harpreet Singh alias Pappu and Harchain Singh alias Chain Singh came to be acquitted vide judgment dated 08.09.2008.

13. Gurmit Singh preferred an appeal bearing No.CRA-D-684-DB-2008 whereas the complainant/petitioner has filed the instant revision petition challenging the acquittal of respondents No.2 to 6.

14. The learned counsel for the complainant/petitioner and the State contend that the impugned judgment whereby the private respondents have been acquitted, has been passed contrary to the record. In fact, the medical evidence was totally in consonance with the ocular account. The prosecution witnesses had deposed consistently not only against the convicted accused-Gurmit Singh but against the acquitted private respondents as well as to the manner in which the occurrence had taken place. They, therefore, contend that the impugned judgment was liable to be set aside.

15. The learned counsel for the private respondents No.3, 5 & 6 namely, Rana alias Jagwinder Singh, Harpreet Singh alias Pappu and Harchain Singh alias Chain Singh, on the other hand, contends that only Gurmit Singh had been attributed an injury with the fire-arm on the person of the deceased. Respondents No.3 and 6, namely, Rana alias Jagwinder Singh and Harchain Singh alias Chain Singh are stated to have caught hold

the deceased, respondents No.2 and 5, namely, Goldi alias Harpal Singh and Harpreet Singh alias Pappu purportedly raised a *lalkara* whereas respondent No.4-Pritpal Singh is stated to have armed with a dang but only raised a *lalkara* and restrained the complainant. Allegations of these kind were easy to level. In fact, a wider net had been knitted to falsely implicate the private respondents. It was in that scenario that the impugned judgment had been passed acquitting them. Therefore, the instant revision petition was liable to be dismissed.

16. We have heard the learned counsel for the parties and gone through the record.

17. Apparently, as per the prosecution case only Gurmit Singh is stated to have fired at the deceased. The private respondents have been attributed no specific injury whatsoever. Allegations of having caught hold of the deceased or the raising of *lalkaras* are easy to level and are usually done so as to knit a wider net to implicate more persons. Therefore, the false implication of the answering respondents cannot be ruled out as there is no other corroborative evidence against them. Gurmit Singh preferred an appeal (CRA-D-684-DB-2008) against his conviction and was granted the concession of suspension of sentence after which he passed away and the proceedings in his appeal stand abated.

18. In view of the aforementioned discussion, we find no reason to interfere with the well reasoned judgment dated 08.09.2008 passed by the Additional Sessions Judge, Patiala, whereby the respondents No.2 to 6, namely, Goldi alias Harpal Singh, Rana alias Jagwinder Singh, Pritpal

Singh, Harpreet Singh alias Pappu and Harchain Singh alias Chain Singh have been acquitted. Therefore, the present revision petition stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

(SUDHIR SINGH)
JUDGE

November 20, 2024
sukhpreet

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