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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-AD-205-2024
Reserved on: 06.08.2024
Date of decision: 13.08.2024

PRITAM SINGH ...Appellant

Versus

GURDEEP SINGH AND OTHERS ..Respondents

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

Present: Mr. K.S.Ahluwalia, Advocate
for the appellant.

Mr. Maninderjit Singh Bedi, Addl. A.G., Punjab.

SURESHWAR THAKUR, J.

1. The instant appeal is directed by one Pritam Singh, against the verdict drawn on 26.07.2002, upon Criminal Complaint No. 8/1/96, by the learned Judicial Magistrate First Class, Nakodar, wherethrough in respect of charges drawn for offences punishable under Sections 323/506 IPC, he made a verdict of acquittal qua all the accused.

FACTUAL BACKGROUND

2. The present criminal complaint was filed by the complainant Pritam Singh against accused Shri Gurdeep Singh, his son Bhupinder Singh alias Ladi and his daughter Amandeep Kaur alias Amna. The said criminal complaint is a counter version to the F.I.R. No. 121/95 registered at the instance of Shri Gurdeep Singh. The genesis of both the F.I.R. No. 121/95 dated 2.7.1995 and

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the instant criminal complaint is the same incident which allegedly took place on 01.07.1995 at 6.00 PM near Village Shahpur Mashmula Mahatpur. On the basis of version of Gurdeep Singh (present accused No. 1) the police registered F.I.R. No. 121/95 dated 2.7.1995 against Shri Pritam Singh (present complainant and his two sons) whereas, the present complainant feeling aggrieved by the police action has filed complaint against Gurdeep Singh.

3. The brief facts of the complaint are that on 01.07.1995 at about 6.00 PM, the complainant was going from the village to his fields and all the three accused i.e. Gurdeep Singh, Bhupinder Singh and Amandeep Kaur were going ahead on the wooden cart. They were driving towards their fields across the fields of the complainant. The road that was taken by the accused was a kacha road having a very narrow width, which was not sufficient to allow the complainant to overtake the wooden cart of the accused, so the complainant requested the accused to give him passage for overtaking by making way for the complainant. The accused did not accede to the request of the complainant. The complainant again requested for passage to overtake the wooden cart and accused got annoyed on his request. Accused No.1 and 2 gave filthy abuses to him. The complainant protested to the accused and asked them to behave properly. Thereafter, all the accused got down from the cart. Accused Gurdeep Singh took out the wooden bar from the cart, accused No.2 armed himself with a 'danda' and accused No.3 had armed herself with a *praini*. Accused No. 1 opened the attack with the blow of the wooden bar on the left side on the face of the complainant hitting the tip of the tongue near the right edge and with the result of this blow his second molar was shaken. The complainant fell down

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from his bicycle. The accused No.2 started giving '*danda*' blow on the lateral surface of the left thigh. Accused No.1 also gave further blows on the lateral surface of the left leg and in the middle. Accused No.3 Amandeep Kaur gave a *praini* blow on the lateral (left surface) of the chest of the complainant. The complainant raised hue and cry which attracted the attention of Jinder Singh son of the complainant, Rachpal Singh son of Baldev Singh and Shri Balbir Singh s/o jit Singh. All the three persons came and rescued the complainant from the hands of the accused. Accused went away saying that today he is saved but they will teach him a lesson. In the rescue process, some injuries were received by accused No.1. The complainant was taken to the Hospital PHC Mahatpur by his son Harjinder Singh at about 7.00 PM on 01.07.1995 and the complainant was medically examined. The copy of MLR was sent to P.S. Mahatpur and ASI Gurmail Singh came to the hospital on 02.07.95 and recorded the statement of the complainant.

4. The accused party joined hands with the local police of Mahatpur and got a false case registered against the complainant and his son under F.I.R. No. 121 dated 2.7.95 under section 323/324/325/34 IPC and in connivance with the doctor got the case converted into 326/325/324/34 IPC. No injury was kept under observation by the doctor but one injury was declared grievous. The complainant was assured for suitable action against the accused and was informed that all the accused had been bailed out by the police and challan will also be presented in the Court. However, the Mahatpur police presented the challan in the Court against the complainant and his sons.

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5. Further, the Doctor Incharge who conducted MLR found seven injuries, on the person of the complainant. Injuries No.3, 4 and 5 were kept for X-ray and under observation but were not sent to Radiologist for X- ray. The face of the complainant was disfigured due to the falling of second molar. The motive of the accused for causing injuries to the complainant was that there is land of the complainant on both sides of the kacha Road which leads to the fields of the accused No. 1. There is 'Aar' of water which goes from one portion of land. The accused used to demolish the said 'Aar' all the time which resulted in damage to the fields of the complainant and the kacha path used to become muddy. The complainant requested the accused about it and also brought into the notice of the respectables which annoyed the accused and they started nursing a grudge against the complainant. The complainant ultimately got under ground pipes constructed for the water to pass through. The complainant has prayed that the accused have caused injuries to the complainant and have committed offences under Sections 323/325/506/504/34 IPC in the area of Village Shahpur PS Mahatpur within the jurisdiction of this court hence, accused be summoned, tried, and punished as per law.

TRIAL COURT PROCEEDINGS.

Pre-Charge evidence

6. In the preliminary evidence, the complainant himself testified as PW-1 and examined three other witnesses i.e. his son Harjinder Singh as PW2, Shri Rachpal Singh as PW-3, Sh. Balbir Singh son of Jit Singh as PW-4. The photocopy of the statement dated 02.07.95 recorded by ASI Gurmail Singh was

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also placed on record as Ex.PA, while the copy of MLR was placed on record as Ex.PB.

7. The trial Court after appraisal of the preliminary evidence, summoned all the three accused under Sections 323/506 IPC. The accused appeared and were released on bail. The charges under Sections 323/506 IPC were framed against the accused on 08.04.1996, to which they pleaded not guilty and claimed trial.

Post Charge evidence.

8. In the post charge evidence, the complainant himself testified as PW-1 and examined Rachpal Singh as PW-2, Balbir Singh as PW-3 and Dr. Sukhwinder Kaur who medically examined the complainant on 01.07.95 as PW-4.

9. After completion of recording of the depositions of the prosecution witnesses, the learned Judicial Magistrate First Class, Nakodar drew proceedings under Section 313 of the Cr.P.C., but therein, the accused claimed false implication, and, pleaded innocence. The accused examined HC Mohan Singh as DW-1 in their defence.

10. After conclusion of the trial, as, became entered upon the complaint (supra), by the learned Judicial Magistrate First Class, Nakodar, the latter proceeded to make the afore verdict of acquittal, upon, the accused-respondents.

SUBMISSIONS OF THE LEARNED COUNSEL FOR THE APPELLANT.

11. The learned counsel for the appellant, has made a vigorous submission before this Court that, the impugned verdict of acquittal suffers from a gross taint of gross mis-appreciation and non appreciation of evidence germane

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to the charge. Thus, he argues that the impugned verdict be quashed and set aside by this Court and the accused be held guilty of the charged offences and sentenced accordingly.

SUBMISSIONS OF THE LEARNED STATE COUNSEL.

12. Contrarily, the learned State counsel submits that, the verdict challenged before this Court is well merited, and, does not warrant its becoming interfered with, by this Court.

13. Before proceeding to delve into and also for making an adjudication in respect of the submissions (supra) addressed before this Court, it is deemed imperative to extract the relevant paragraphs, as occur in the impugned judgment of acquittal.

14. As far as the submission of the ld. counsel for the complainant regarding the acceptance of the version by the police in cross case is concerned, I find that the conduct of the police is partisan and biased. However, the remedy with the complainant lay in the form of application to the court of competent jurisdiction for issuing directions to the police in exercise of powers conferred by section 156(3) of the Cr.P.C. for registration of first information report on the base of version of the complainant. Such an application if moved, would have been decided on merits. However, such application was never moved and even in the criminal complaint, the complainant has nowhere made a request for the registration of F.I.R. It is not possible for the court to act suo motu without an application in all such case and particularly cross case where F.I.R. is already registered on the version of one side.

15. Coming to the question of delay in the filing of this complaint, I find that explanation given by the complainant is hard to swallow. The complainant has given the explanation that after recording of his statement on 2.1.95 Ex. PA the complainant was

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*assured to suitable action against the accused and was informed that all the accused had been bailed out by the police and challan will also presented in the court. However the police presented the challan in this court against the complainant and his sons. On enquiry, the complainant was informed that in the said challan against the complainant, ASI Gurmail Singh Investigating officer has written in his report that the injuries suffered by the complainant are of u/s 323/34 IPC which are non cognizable offences. The Investigating Officer further wrote in the challan that complainant might have self inflicted injuries on his person as a counter blast of the F.I.R. registered against him. All these factors consumed time and led to the said delay. I have perused the file of F.I.R. No. 121/95 date 2.7.95 titled as State Versus Pritam Singh. **I find that the complainant Pritam Singh was arrested by the police on 11.8.95 and when the complainant was bailed but on 22.8.95 vide order of the Id. Distt. & Sessions Judge, Jalandhar dated 22.8.95. The challan was presented by the police on 01.9.95 thereafter, the prosecution/complainant has no explanation for the delay. It transpires that the filing of this complaint is after thought well mediated more and pressure tactic to force the accused No. 1 to withdraw the F.I.R. registered against the complainant***

16. xxxx xxxx xxxx..

*As per MLR Nos. 26/95 of accused No.1 Shri Gurdeep Singh in case F.I.R. No. 121/2.7.95 and the supplementary medical report are concerned **they clearly suggests that the accused No.1 suffered two fractures and thus the injuries sustained by the accused No.1 are serious in nature. Secondly there is a complete consensus between the parties that there was a brawl between them on 1.7.95 at around 6.00 PM. The versions of both the sides as to the motive and initiative may be different materially but incident in which both sides sustained injuries is the same. Thus, the prosecution is***

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*under obligation to explain these injuries on the person of accused No. 1. In his statement before the police on 2.7.95 the complainant has stated that the complainant caught hold of the 'Danda' in the hands of the accused No.3 Kumari Amandeep Kaur when she was hitting him with the said 'Danda' and, thereafter, with the same 'Danda' he gave blows to the accused No.1. **The MLR of accused No.1 suggests that the injury No. 1 was inflicted with sharp weapon. The action of the incident as related by the complainant suggests that none of the accused used sharp edge weapon but all of them were blunt weapons. Therefore, the prosecution has not explained of injuries on the person of accused No.1, which has proved fatal to the case of the complainant.***

17. I would now take up some material discrepancies, which goes long way in falsifying the version of the complainant. In the said statement date 2.7.95 recorded by the police, the complainant has stated that the accused No.1 was sitting on the Cart with accused No.2. In this complaint filed by the complainant, he has roped in accused No.3 who is the son of accused No. 1. Further in the said statement recorded by the police on 2.7.95 the complainant has stated that the accused escaped after injuring him and he was taken to the hospital by his son Parminder Singh and Jinder on the tractor. In this complaint in para No.5 the complainant has stated that he was removed to the hospital by his son Harjinder Singh.

18. Now I move further to the glaring improvements made by the PWs in their preliminary evidence and the post charge evidence. The complainant has deposed in his cross examination that he recorded in his statement to the police on 2.7.95 Ex.PA that he kept on requesting the accused to give him passage for over taking but they said just wait, we will give you passage. I have perused Ex.PA and the same is nowhere recorded. The complainant also deposed during his cross examination that the accused hurled abuse on him and he asked the accused as to what harm he has

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done to them and the same was also recorded in his statement dated 2.7.95 to the police Ex. PA. However I have perused Ex. PA and the same is nowhere mentioned. Further, the complainant deposed that in his statement to the police dated 2.7.95 Ex.PA, he also got recorded that the accused No.1 took out the 'Praini' of the Cart and gave a blow on his face. The same does not appear in Ex. PA. The complainant then stated that in his said statement he also got recorded that there was a 'danda' in the hands of accused No.2 while the accused No.2 had a 'Praini'. The same does not find mention in Ex.PA. The complainant also reiterated that in the said statement to the police he recorded that the accused No.2 gave 2-3 blows on his left thigh with the 'dang' while accused No 3 hit him on the left side of his chest by her 'Praini' but the same does not find mention in Ex.PA.

19. PW3 also deposed before this court on 2.2.96 during preliminary evidence and thereafter on 4.12.2000 during post charge evidence. **PW3 has made major improvements in his cross-examination.** xxx xxxx

20. **The prosecution has failed to prove the motive.** There is not even a single witness who substantiates the claim of the complainant that he had taken up the matter regarding the frequent breaking of the 'Aar' by the accused with some village respectables and this had annoyed the accused. Prosecution thus has failed to prove the motive.

21. **I thus find that this is classic case of counter blast and accused have been falsely framed, as after thought to pressurize illegally to withdraw the F.I.R. registered by the police against the complainant on the compliant of the accused No.1.** As such this complaint deserves to be dismissed out rightly and accordingly this complaint is dismissed and accused No.1, 2 and 3 are acquitted of the charge framed.

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**INFERENCES OF THIS COURT.**

14. The above made reasons by the learned trial Judge after making an incisive analysis of the deposition(s) of the complainant and other prosecution witnesses besides analyzing the documents on record, thus do not suffer from any gross infirmity. Resultantly this Court finds no merit in the appeal.

15. The foremost reason for negating the prosecution story is embodied in the fact that there is gross delay in lodging of the complaint, inasmuch as, the occurrence took place on 01.07.1995, and, on the basis of the complaint made by the opposite party, FIR No. 121/95 dated 02.07.95 became registered against the complainant. The complainant became arrested by the police on 11.08.1995 in the said FIR and thereafter he was granted bail vide order dated 22.08.1995 passed by the learned Session Judge, Jalandhar. Challan in the FIR case was presented by the police on 01.09.1995. Thereafter, the complainant had filed the criminal complaint against the opposite party on 29.01.1996.

16. The said delay is immense and since no satisfactory explanation has been given by the complainant for the happening of the said delay. Resultantly the said unexplicated inordinate delay, begets an inference, that the version set forth in the private complaint, thus was a concocted and engineered version, merely to pressurize the opposite party/complainant in the FIR case.

17. Secondly, there are material inter-se discrepancies/contradiction(s) in the unactioned version made by the complainant before the police, vis-a-vis, his narrations made in the complaint (supra), besides a perusal of the testimonies of the prosecution witnesse(s)

reveals, that there are gross improvement(s) made by them in the preliminary

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evidence and in the post charge evidence. The major discrepancies and improvement(s) are :

a) In the statement made by the complainant before the police, on 02.07.1995, he stated that the accused escaped after injuring him and **he was taken to the hospital by his son Parminder Singh and Jinder on the tractor** whereas in the complaint (supra), he stated that **he was taken to the hospital by his son Harjinder Singh.**

b) PW-3, Balbir Singh during the course of his cross-examination deposed, that in his testification rendered during the recording of preliminary evidence (Exhibit DD), he stated therein, that the accused Bhupinder Singh **struck a danda blow on the left leg of the complainant.** He further deposed that in his testimony (Exhibit DD), he had stated **qua the accused No. 3 delivering a praini blow on the left side of the chest of the complainant.** However, the said echoings do not find mention in the testimony Ex.DD, as rendered by him in the preliminary evidence. Resultantly therebys when he grossly improved from his testification as became rendered, at the pre summoning stage, thereupon his improved testimony becomes bereft of evidentiary vigor, and, thus is required to be discarded.

18. In aftermath, the above material discrepancies and glaring inter-se improvement(s) inter-se preliminary evidence and post charge evidence but naturally creates a doubt qua the veracity of the prosecution version. Hence, the benefit of doubt is to be assigned to the accused.

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FINAL ORDER OF THIS COURT.

19. In consequence, for all the reasons (supra), there is no merit in the appeal, and, is accordingly dismissed. The impugned verdict of acquittal, as made by the learned trial Court concerned, is maintained, and, affirmed.
20. 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. Since the main case itself has been decided, thus all the pending application(s), if any, are disposed of.

(SURESHWAR THAKUR)
JUDGE

13.08.2024
kavneet singh

(SUDEEPTI SHARMA)
JUDGE

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