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(101)

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

CRR-3181-2009

Date of Decision:-28.01.2025

SUKHDEV SINGH

.....Petitioner

VERSUS**STATE OF PUNJAB**

.....Respondent

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

Present:- Mr. Puneet Sharma, Advocate with
Mr. Sparsh Chhibber, Amicus Curiae
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 23.11.2009 passed by the Sessions Judge, Rupnagar whereby the appeal filed against the judgment of conviction and order of sentence dated 18.10.2008 passed by the Judicial Magistrate, 1st Class, Anandpur Sahib has been dismissed.

2. The FIR in the present case came to be registered on 03.04.2004. The judgment of conviction was passed on 18.10.2008 by the Judicial Magistrate, 1st Class, Anandpur Sahib. The appeal filed against the order of conviction was dismissed on 23.11.2009 by the Sessions Judge, Rupnagar. The instant revision petition was filed on 03.12.2009 and has come up for final hearing now i.e. after a period of more than 20 ½ years from the date of registration of the FIR.

3. Briefly, the prosecution case is that Hardeep Singh s/o Joga Singh (complainant) was doing the work of a denter in Kiratpur Sahib. On

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02.04.2004, after closure of his workshop, he started his journey back towards his village Dabour. When he reached near Village Kalyanpur, his younger brother Dilbar Singh and uncle's son Manjit Singh met him in the chowk of village Kalyanpur. From this place, they all started towards village Dabour in a tempo. When the tempo reached near the Warehouse, accused/Sukhdev Singh accompanied with co-accused Sikander Kaur (his wife) over took the tempo while driving on his motorcycle. Thereafter, at about 06.30 PM when complainant's tempo reached near the link road of village Dabour, accused Sukhdev Singh stopped his motorcycle in the middle of road and in front of complainant's tempo. Thereafter, accused/Sukhdev Singh caught hold of the complainant Hardeep Singh from his hair and pulled him out of the tempo. Accused Sikander Kaur was armed with stick and she gave stick blows to the complainant that hit on his right arm, left leg, neck and on the backside of body. Then accused/Sukhdev Singh pulled the complainant down on the ground. He took out his knife and gave knife blows on both arms, right arm thumb and on the ring finger of the complainant. The complainant raised a raula, on which, PWs Dilbar Singh and Manjit Singh came out of the tempo and rescued the complainant from the clutches of the accused. The accused ran away from the place of occurrence alongwith their weapons of offence. Thereafter, PWs Balwinder Singh and Inder Singh sons of Harbhajan Singh were called to the place of occurrence. The complainant was taken to Civil Hospital, Anandpur Sahib, wherein, he was medically examined by Dr. Baljit Kaur. On the basis of application of the complainant. FIR was got registered in this case. Rough site plan was prepared. The accused were arrested. Statements of witnesses were recorded. After completion of investigation, challan under section 341, 323, 324, 34 IPC was presented in the Court.



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4. A prima facie case under Sections 323, 324, 341, 34 IPC was made out against the accused and they were charged accordingly.

5. In order to prove its case, prosecution examined Dr. Baljit Kaur, Medical Officer, Anandpur Sahib as PW-1; Hardeep Singh complainant as PW-2; Bilbar Singh s/o Joga Singh as PW-3; Ajaib Singh s/o Tara Singh as PW-4; ASI Bachittar Singh, Investigation Officer as PW-5; Inder Singh son of Harbhajan Singh as PW-7; and Manjit Singh son of Fauja Singh as PW-8.

6. After the closure of the prosecution evidence the statement of the accused was recorded U/s 313 Cr.P.C. and the entire incriminating evidence was put to them. They denied the allegation and pleaded innocence. They pleaded that the complainant had a land dispute with them so they were falsely implicated. However, the accused did not lead any evidence in their defence.

7. Based on the evidence led, while Sikander Kaur was acquitted, the accused/petitioner came to be convicted and sentenced by the Court of Judicial Magistrate, 1st Class, Anandpur Sahib vide judgment and order of sentence dated 18.10.2008 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
324 IPC	RI for 02 years	Rs.1000/-	RI for 02 months
323 IPC	RI for 01 year	Rs.500/-	RI for 01 month
341 IPC	RI for 01 month	--	--

All the sentences were ordered to run concurrently.

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Sessions Judge, Rupnagar vide judgment dated 23.11.2009 but the sentence was modified as under:-

Offence under Section	Sentence RI/SI (reduced to)	Fine	RI/SI in default of payment of fine
324 IPC	RI for 01 year	Rs.1000/-	RI for 02 months
323 IPC	RI for 06 months	Rs.500/-	RI for 01 month

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341 IPC	RI for 01 month	--	--
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9. The aforementioned judgments are under challenge in the present appeal.

10. During the pendency of the instant appeal, the sentence of the accused/petitioner was suspended vide order dated 07.12.2009.

11. The counsel for the accused/petitioner contends that the judgment of conviction was passed on the basis of conjectures and surmises. The prosecution witnesses were discrepant in material particulars. There was a delay of 17 hours in the registration of the FIR which was fatal to the prosecution case. The weapon of the offence has not been recovered. Therefore, the judgment was liable to be set aside and the accused/petitioner acquitted of the charges framed against him. He further contends that if this Court was to come to a finding that the prosecution had established its case beyond reasonable doubt, then keeping in view the fact that the occurrence was of the year 2004 and the case had come up for final hearing now after a gap of 20 ½ years, the sentence of the accused/petitioner may be reduced to the period already undergone by him.

12. The Counsel for the State on the other hand has filed a custody certificates of the accused/petitioner dated 28.01.2025 and the same is taken on record. He contends that the medical evidence was totally in consonance with the ocular account. All the material prosecution witnesses have deposed consistently and the discrepancies, if any are minor in nature. He, therefore contends that the present petition was liable to be dismissed.

13. I have heard the learned counsel for the parties.

14. The eye-witnesses of the occurrence as well as complaint namely PW-2, PW-3, PW-4 and PW-8 have given consistent versions regarding

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inflicting of injuries by means of a knife by the accused/petitioner on the person of Hardeep Singh on both arms, left hand's thumb. PW-1 Dr. Baljit Kaur, who medically examined the injured just after two hours of the occurrence found an incised wound on the left fore arm as well as on the left hand thumb of Hardeep Singh. Hardeep Singh was brought by Balwinder Singh as per PW-1 at 8.30 p.m. and as such the statement of Balwinder Singh (PW-7) is believable that after receiving a telephonic call he reached on the spot and took the injured to Anandpur Sahib hospital, where he remained admitted. PW-7 specifically admitted he had not seen the occurrence. It is apparent that PW-7 was stated the truth that he took the injured to hospital. If PW-7 was a planted witness then he could have stated that he was present on the spot of occurrence but this is not the case. In view of fact that the statement of PW-7 is corroborated by the statement of PW-1, it is beyond doubt that the occurrence in question took place on the spot and that is why Hardeep Singh in an injured condition was taken by PW-7 to hospital.

15. It is so because PW1 found injuries no. 1 to 4 on person of Hardeep Singh to be caused by sharp edged weapon, but simple in nature. The medical evidence corroborates the statements of eye-witnesses regarding seat of injuries on the left arm and on left hand thumb. Non-mentioning of seat of injury No. 4 is not fatal because the injury on the left fore, arm and left hand thumb attributed to the accused/petitioner by eye-witnesses has been found by PW-1. So the medical evidence is in consonance with the ocular account.

16. In view of the above discussion, I find no infirmity in the judgments of the Trial Court as well as of the Lower Appellate Court. Therefore, the present revision stands dismissed.

17. As regards imposition of sentence, admittedly, the occurrence



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pertains to the year 2004 and as many as 20 ½ years have passed ever since then. A perusal of his custody certificate would show that he does not have any criminal antecedents and is a first time offender. Therefore, subject to the payment of the fine as imposed and payment of Rs.25000/- as compensation to be paid to the complainant/injured Hardeep Singh, the sentence of the accused/petitioner is reduced to the period already undergone by him i.e. 16 days.

18. The present revision petition stands disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

January 28, 2025
Jitesh

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