

PBGDA10002912013



Presented on : 25-11-2013
Registered on : 25-11-2013
Decided on : 22-10-2018
Duration : 4 years, 10 months, 27 days

**IN THE COURT OF SIMRAN SINGH, PCS, JUDICIAL
MAGISTRATE IST CLASS, BATALA**

CHI No. : CHI-202-2014
Challan No. : 41 of 2013
Date of Institution : 25.11.2013
Date of Decision : 22.10.2018

STATE

VS.

1. Sardool Singh son of Ujjagar Singh,
2. Lakhwinder Singh son of Sardool Singh,
3. Ranjit Singh son of Sardool Singh,
4. Jaswinder Singh son of Sardool Singh,
5. Amarjit Kaur wife of Sardool Singh, all residents of village
Dhandiala Natt.

....Accused

FIR No. 63 dated 02.08.2013
Under sections 326, 323, 148, 149 IPC.
Police Station : Sadar Batala.

Present: Ms. Neeraj Azad, APP for the state.
Accused accused Sardool Singh, Lakhwinder Singh, Ranjit
Singh, Jaswinder Singh and Amarjit Kaur on bail with
counsel Sh. Mansoor Ahmad Waraich, Advocate.

J U D G M E N T : -

1. The above named accused have been forwarded to this Court by the officer in-charge of Police Station Sadar, Batala to face trial u/ss 326, 323, 148, 149 of Indian Penal Code, 1860 (hereinafter referred to as IPC only).

2. In nutshell, facts of the prosecution case are that on 19.07.2013 police received MLR of complainant Satnam Singh in which three injuries were reported by doctor and injuries no. 1 and 3 were simple and blunt in nature and injury no. 2 was sharp and the same was kept under observation. Thereafter, ASI obtained opinion of doctor regarding the fitness of injured for making statement, but doctor opined the injured to be unfit for making statement. Then again on 20.07.2013, ASI along-with police party went to civil hospital where complainant made statement that talks of compromise are going on between the parties and he will make statement if compromise will not materialize. Thereafter, on 27.07.2013 a phone call was received from the complainant, on which ASI went to Civil Hospital and recorded the statement of complainant/injured Satnam Singh to the effect that on 18.07.2013 at about 07.30/08.00 PM, he along-with his brother Dilbagh Singh had gone towards their plots and then they came to know that Sardool Singh to whom 10 Marlas of land was sold by them was fixing gate in the Gali/street adjacent to it for taking its possession. Then they went to stop them and then Lakhwinder Singh armed with Datar, Sardool Singh armed with Kirpan & Ranjit Singh armed with Danda were

standing out side their house and in the meantime Jaswinder Singh son of Sardool Singh came out of his house and raised Lalkara to teach lesson to complainant. Then, Lakhwinder Singh gave blow from the blunt side of Dattar on the forehead of complainant and Sardool Singh gave Kirpan blow on the left forearm of complainant and then complainant fell down on the ground and Ranjit Singh gave Danda blow on his back and Amarjit Kaur pulled his hair. When Dilbagh Singh brother of complainant came forward to rescue him, then accused also gave beatings to him. On alarm being raised, accused fled from the spot. Thereafter, complainant was got admitted in the Civil Hospital, Batala. Reason for the occurrence was that complainant has left a passage for approaching his plots and accused want to take its possession by fixing gate and when they were stopped from doing so, then accused caused injuries to complainant. So he prayed for taking action.

3. From the statement of complainant and his MLR and X-ray report, commission of offences under sections 326, 323, 148, 149 IPC were made out, but the matter appeared to be suspicious, so at initial stage, FIR was not registered. But thereafter on 02.08.2013, this FIR was registered against accused and they were joined in investigation. Weapons of offences were also recovered. Place of occurrence was visited. Site plan was prepared. After the completion of entire formalities of investigation, challan was presented in the Court against the accused.

4. Upon appearance, copies of challan were supplied to accused free of cost as provided u/s 207 Cr.PC and statement of accused

in this regard was also recorded.

5. After hearing the learned counsel for accused as well as Ld. APP for state and after perusing the Police Report and documents appended with it, a prima facie case u/ss 148, 326, 323 read with Section 149 IPC was made out against accused and accordingly accused were charge sheeted. The charges was then read over and explained to accused in simple language, to which they pleaded not guilty and claimed trial.

6. In order to bring home guilt of accused, prosecution examined complainant Satnam Singh as PW-1, alleged eye witness Dilbagh Singh as PW-2, Dr. Sukhdeep Singh as PW-3, Dr. Gurdial Singh as PW-4, Dr. Sukhraj Singh as PW-5, ASI Dalbir Singh, Investigating Officer as PW-6, HC Sukhraj Singh as PW-7, Satwant Singh, Computer Operator of Civil Hospital, Batala as PW-8 and SHO Sukhinder Singh as PW-8 (wrongly re-numbered). Prosecution also tried to prove on record statement of complainant regarding talks of compromise as Ex.PA, subsequent statement of complainant as Ex. PB, police proceedings on the same as Ex.PW6/C, FIR as Ex.PW6/D, applications moved to medical officer for knowing the fitness of injured as Ex.PW6/A and Ex.PW6/B, MLR as Ex.PW5/A, X-ray report as Ex.PW3/B, opinion of doctor as Ex.PW4/B, site plan as Ex.PW3/E, bail bonds of accused as Ex.PW6/H, Ex.PW6/M, Ex.PW6/N, Ex.PW6/O and Ex.PW6/P, seizure memo of Dattar as Ex.PW6/L and seizure memo of Kirpan as Ex.PW6/G, seizure memo of dang as Ex.PW6/Q, sketches of weapons as Ex.PW6/K and Ex.PW6/F and medical record of injured as Ex.PW8/A. During the cross-

examination of complainant PW-1, Ld. Counsel for accused put him photographs of the house of accused as Ex.D1 and Ex.D2 and sale deed as Ex.D3. Thereafter, Ld. APP for the State closed the prosecution evidence.

7. On closure of prosecution evidence, accused were examined u/s 313 of Criminal Procedure Code, in which all incriminating circumstances appearing in the statements of prosecution witnesses were put to accused, so as to apprise them of incriminating evidence, but they had refuted all the circumstances by pleading false implication and innocence. Accused did not led any defence evidence despite availing number of opportunities and accordingly same was closed by order.

8. I have heard learned APP for State and learned defence counsel and have also gone through the case file carefully and minutely.

9. Learned APP for the State while referring to the statements of prosecution witnesses forcefully argued that accused constituted an unlawful assembly on 18.07.2013 and they were armed with deadly weapons and they committed rioting and also caused injuries to complainant Satnam Singh with deadly weapons and injury no. 3 caused by accused Sardool Singh with Kirpan has been declared as grievous in nature and they also caused simple injuries to complainant and prosecution witnesses have duly proved the guilt of accused beyond all shadows of doubts. So, she prayed for convicting the accused for the offences for which they have been charge sheeted.

10. On the other hand, learned defence counsel forcefully argued

that accused have not caused any injury to complainant rather a false case has been got registered by complainant against the accused to put pressure upon them to leave the property purchased by accused from complainant. He further vehemently argued that no such occurrence had happened on 18.07.2018, rather complainant on the basis of self inflicted injuries have got registered the present false case against accused. He further while referring to the testimony of PWs and contradictions in the same has forcefully argued that the case of prosecution is false and frivolous and even the prosecution witnesses have failed to prove the guilt of accused beyond all shadows of doubts. So, he prayed for acquittal of accused.

11. I have given thoughtful consideration to these submissions and in order to appreciate the same, have gone through the record of the case carefully.

12. It is general principle of criminal jurisprudence that it is the duty of prosecution to prove the guilt of accused beyond all reasonable doubts. Prosecution has to stand on its own legs and it cannot take advantage of weakness of defence. In order to bring home guilt of accused prosecution examined as many as 9 witnesses. Lets see whether prosecution has been successful in bringing home guilt of accused beyond all reasonable doubts.

13. Accused in the present case have been charge-sheeted for the commission of offences under sections 148, 326 and 323 IPC read with Section 149 IPC. In order to bring home guilt of accused,

prosecution examined 9 witnesses. But perusal of testimony of prosecution witnesses clearly goes on to prove that prosecution has failed to prove the guilt of accused beyond all shadows of doubts. As per the case of prosecution and statement given by complainant to police, on 18.07.2013 complainant along-with his brother had gone towards their plots and then they came to know that accused were fixing a gate towards the street to take its possession and when they went to stop them, then the occurrence took place. But while deposing as PW-1, complainant stated that when on 18.07.2013, they had gone towards their plots, then they found that accused were fixing a gate in the street. So at the time of registration of FIR, complainant alleged that they came to know that accused were fixing the gate and thus, they went to stop them, but while deposing in the Court, he stated that when they went towards their plots, then they found that accused were fixing gate in the street, so it shows that this witness is not speaking truth and there are contradictions in the testimony given in the Court and in his statement recorded by the police on the basis of which this FIR was registered, which has made his testimony and case of prosecution highly doubtful as there are contradictions in very foundation of the case which led the complainant to went on spot.

14. Furthermore there are also contradictions in the testimony of PW-1 complainant and PW-2 alleged eye witness, which also raises doubt over the case of prosecution and truthfulness of the testimony of these PWs. PW-1 complainant Satnam Singh has stated in his cross-

examination that before going to hospital firstly they had gone to police station and taken Ruqa from police. He even stated that police recorded their statement on 18.07.2013, whereas PW-2 Dilbagh Singh brother of complainant has stated in his cross-examination that police did not give any Ruqa to them nor police recorded his statement. Thus, it also raises doubt on the truthfulness of the case of prosecution and testimony of both these Pws, because there are also contradictions in the testimony of these PWs with regard to the chain of circumstances which allegedly happened immediately after the alleged occurrence. So if actually any such occurrence would had happened then there would had not been such contradictions in the testimony of these witnesses.

15. It is further pertinent to mention here that as per the case of prosecution and testimony of PW-1 and PW-2, when PW-2 came forward to save complainant, then accused also scuffled with him and gave beating to him, but as per the cross-examination of PW-1 and PW-2, no injury was received by the PW-2 nor he was admitted in hospital. So the testimony of PW-1 and PW-2 and version of prosecution has itself raised doubt over the happening of alleged occurrence. As per the case of prosecution, accused were five in number and they were armed with deadly weapons. So, it is highly unbelievable that when five persons armed with deadly weapons attacked the complainant and his brother, then the brother of complainant did not suffer any injury on his person and complainant had suffered only three injuries, which also shows that no such occurrence had happened and accused had not caused any

injuries to complainant because if any such occurrence would had happened and accused would had attacked the complainant and his brother, then there would had been number of severe injuries on their person, but that is not so in this case, which itself falsifies the story of prosecution. Thus it appears that complainant in order to put pressure upon the accused to take back property sold to them has got registered this FIR against the accused on the basis of false injuries.

16. It is further in the fitness of things to mention here that in this case the alleged occurrence is of 18.07.2013, but complainant had not made any statement to police against the accused till 27.07.2013 and he made statement against the accused only on 27.07.2013 and even the police has also found the occurrence to be suspicious, thus it had also not registered the FIR immediately after recording the statement of complainant, rather the FIR was registered only on 02.08.2013. Even PW-6 ASI Dalbir Singh Investigating officer in his cross-examination has categorically admitted that during his investigation, he found that accused have not caused any injuries and the matter was suspicious. So, even the police had also found the occurrence in question to be suspicious, but despite that thereafter for the reasons best known to police, this case was registered against the accused.

17. Furthermore, the site plan Ex.PW6/E relied upon by prosecution shows that at point-A accused were fixing gate and a street is also shown in the site plan, but cross-examination of Investigation Officer PW-6 has totally falsified the said site plan relied upon by the

prosecution and proved that no street is in existence at the spot. PW-6 ASI Dalbir Singh, Investigating Officer has categorically stated that the area which the complainant is alleging to be a street is actually a part of the house of accused Sardool Singh, because complainant had sold the said property to him and now complainant for establishing a colony in their plots wants to forcibly carve-out street from the house of accused Sardool Singh. So cross-examination of ASI Dalbir Singh, Investigating Officer PW-6 clearly shows that there is no street at the spot, rather the complainant party wants carve-out street from the house of accused and thus they in order to put pressure upon him has got registered this FIR against the accused. Since no street is in existence at the spot, thus the question of fixing of any gate by accused on the street and happening of alleged occurrence due to same does not arise at all. Thus, the testimony of Investigating officer PW-6 has also falsified the case of prosecution.

18. Furthermore in the instant case, three injuries on the person of complainant were reported by the doctor and injury no. 2 is reported to be sharp and same was declared as grievous in nature by the doctor, but testimony of doctors recorded in the Court also clearly goes on to prove that the said injury was not grievous in nature. PW-3 Dr. Sukhdeep Singh, Medical Officer who reported the x-ray of complainant Satnam Singh has categorically stated in his cross-examination that he has not mentioned the depth of cut. He even stated that possibility of said injury being self-suffered or being caused by friendly hand cannot be ruled out. He also stated that no plaster or any surgery was conducted when Satnam Singh

came to him. He even stated that it was a minor cut and not a complete cut. Even PW-4 Dr. Gurdial Singh in his cross-examination stated that the alleged injury is minor type of cut and causing of such type of minor cut with friendly hand cannot be ruled out. Even PW-5 Dr. Sukhraj Singh, Medical Officer who conducted MLR of complainant has categorically stated in his cross-examination that injuries mentioned in the MLR of Satnam Singh are minor in nature and there was no requirement of any surgery due to minor type of injury. He also admitted it as correct that if injury no. 2 was caused with weapon like Dattar or Kirpan, then diameter of width and length of said injury would be more. He even admitted that such type of injury cannot be caused with Dattar or Kirpan like weapon. He even admitted that .5 is very minor width and such type of injury cannot be caused by aggression. He also stated that possibility of injury being self-suffered cannot be ruled out. Thus, testimony of doctors also clearly shows that injury no. 2 which was declared as grievous in nature was very minor kind of injury and no surgery for same was required and even the same also cannot be caused with the Dattar or Kirpan like weapon or by any aggression, because if such kind of injury would had been caused with Dattar or Kirpan, then its length and width would have been more than its actual length and width. Thus the testimony of PW-3, PW-4 and PW-5 has also falsified the causing of injury no. 2 on the person of complainant with Kirpan, rather from the testimony of these Pws, it has become crystal clear that the said injury was not caused in any fight or due to aggression rather the same was self suffered injury,

suffered by complainant just to book the accused persons to put pressure upon them to get back land sold to them.

19. Not only this, high handedness of complainant is also apparent from the medical record Ex.PW8/A produced in the Court by prosecution. Perusal of said medical record shows that complainant remained admitted in the hospital from 18.07.2013 to 09.08.2013 without any such requirement when he was not having any severe injury and does not require any indoor treatment. Perusal of temperature chart of complainant in the said record clearly shows that his pulse, blood pressure and respiration remained stable through out that period. Even the ward intake/output chart also shows that no indoor treatment was required to be given to complainant and all the medicines were given to him orally twice a day and that too upto 27.07.2018 only, but complainant got himself discharged only on 09.08.2018 just create evidence against accused persons, when infact he was not suffering from any such injury which requires such long treatment. Even said medical record also shows that no treatment of indoor patient such as administering drips or giving injections etc. was given to complainant during that period. Thus, it clearly shows that complainant remained admitted in the hospital for such a long period without any requirement only to create evidence against accused when infact no such occurrence had happened and no injuries were caused to him by accused persons.

20. Even there is also an unexplained delay of 10 days in making statement by complainant to police which also raises doubt over

the case of the prosecution, because if actually the accused would had caused injuries to the complainant and were intending to take forcible possession of street in question, then definitely complainant would had immediately got his statement recorded to police for taking action against accused, but he has not done so, rather he remained silent for 10 days and thereafter he named the accused persons for causing the alleged injuries which has itself made his statement and the case of prosecution highly doubtful and the benefit of that doubt also deserves to be given to the accused facing the trial.

21. It is also in the fitness of things to mention here that in the instant case prosecution has cited nine independent alleged eye witnesses of the village to prove the happening of alleged occurrence, but surprisingly during the trial, all these witnesses have been given up by the prosecution, either on the ground of being won over or being unnecessary witnesses, but it is pertinent to mention here that the said witnesses were intentionally not got examined by the complainant due to the reason that if they would had appeared in the Court, then the truth would had been unfolded in the court from their testimony. Thus, no independent witness has been examined by the prosecution to prove the alleged occurrence and causing of injuries to complainant by the accused, rather prosecution had given up all these independent witnesses and examined only complainant and his brother who are the interested witnesses, and even their testimonies are also full of contradictions with each other and with the case of prosecution and thus they could not prove

the happening of alleged occurrence and causing of injuries to complainant by the accused and resultantly they have failed to prove the guilt of accused beyond all shadows of doubts. Thus prosecution witnesses could not prove the happening of alleged occurrence and causing of injuries to complainant by accused facing the trial, rather the whole case of prosecution is highly doubtful and injuries on the person of complainant appears to be false one, suffered by complainant himself just to book the accused in the instant case to put pressure upon them to get back land sold to them by complainant vide sale deed Ex.D-3. Hence accused are not proved to had constituted any unlawful assembly on the alleged day of occurrence while armed with weapons, nor they are proved to had committed any violence and caused any injury to complainant, thus their guilt is not proved in any manner, so they deserve to be acquitted from the offences for which they are charge-sheeted.

22. So as a sequel to my above discussion, prosecution has miserably failed to prove the happening of alleged occurrence and causing of any injury to complainant by accused and it has thus failed to prove the guilt of accused beyond all reasonable doubts. So all the accused deserve to be acquitted from the charges framed against them. Accordingly, accused Sardool Singh, Lakhwinder Singh, Ranjit Singh, Jaswinder Singh and Amarjit Kaur are hereby acquitted from the charges framed against them by giving them benefit of doubt. Their bail bonds and surety bonds stand discharged. Case property if any, be dealt with as per rules after expiry of period of appeal or revision, or subject to the

result of appeal or revision, if any. File be consigned to the Record Room,
Batala.

Pronounced
Dated 22.10.2018.

(Simran Singh), PCS,
Judicial Magistrate Ist Class,
Batala/UID No.PB0372

Prabhjot Singh
Stenographer III

Dictated on :22.10.2018.
Transcribed on :22.10.2018.
checked on : 22.10.2018.
Signed on :22.10.2018.

(Simran Singh), PCS
Judicial Magistrate Ist Class,
Batala/UID No.PB0372

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Present: Ms. Neeraj Azad, APP for the state.
Accused accused Sardool Singh, Lakhwinder Singh, Ranjit Singh, Jaswinder Singh and Amarjit Kaur on bail with counsel Sh. Mansoor Ahmad Waraich, Advocate.

No DW is present despite last opportunity. Accused have availed number of opportunities but have failed to conclude their evidence, accordingly no further adjournment is justified, so the evidence of accused is closed by order.

Arguments heard. Vide my separate detailed Judgment of even date, all the accused stand acquitted from the charges framed against them as detailed therein. Their bail bonds and surety bonds stand discharged. Case property, if any, be dealt with as per rules after expiry of period of appeal or revision, or subject to the result of appeal or revision, if any. File be consigned to the Record Room, Batala.

Pronounced
Dated 22.10.2018.

(Simran Singh), PCS,
Judicial Magistrate Ist Class,
Batala/UID No.PB0372

Prabhjot Singh
Stenographer III