

**In the court of Sh. Virinder Aggarwal, PCS
Additional Sessions Judge, Sri Muktsar Sahib**

Criminal Revision No. 19

Date of Institution:- 18.04.2015

Date of Decision:- 19.05.2016

CRR/56/2015

Hardeep Singh son of Sukhdarshan Singh, Caste Arora Sikh, Resident of
Balaji Nagar, street no. 2, Gidderbaha District Sri Muktsar Sahib

.....Revisionist/Petitioner..

V e r s u s

- 1) Kulwinder Singh son of Jugraj Singh
- 2) Jassa Singh son of Babu Singh
- 3) Hakam Singh son of Sahib Singh
- 4) Jugraj Singh son of Hakam Singh
- 5) Ghulla Singh son of Babu Singh residents of village Bharu Tehsil
Gidderbaha District Sri Muktsar Sahib
- 6) Rakesh Kumar son of Jagan Nath
- 7) Balish Kumar son of Jagan Nath residents of Gidderbaha District
Sri Muktsar Sahib

.....Respondents...

***Revision Petition against the order dated 27.02.2015
passed by the court of Sub Divisional Judicial Magistrate,
Gidderbaha***

Present:- Sh. B.S. Sekhon, Adv, Counsel for Revisionist
Sh. Gopal Baghla, Adv, Counsel for Respondents no. 1, 2, 4
and 5
Sh. Deepak Girdhar, Adv, Counsel for Respondents No. 6 and
7

Order

- 1) Revisionist has filed the present revision petition against the
summoning order dated 27.02.2015 passed by SDJM, Gidderbaha vide

which Ld. Court has summoned the respondents to face trial under Sections 324, 440, 427, 148, 149 of IP and 25 of Arms Act and has not summoned the accused under Section 307 of IPC.

2) Briefly, case of revisionist/complainant is that on 24.6.2010 complainant along-with Rohit Sethi and Jagjiwan Singh went to land on lease with him at 12.30 PM. Accused came on Maruti car and a tractor. Accused Balish Kumar raised lalkara that Hardeep Singh should be taught a lesson for getting the factory closed and accused Rakesh Kumar told Kulwinder Singh that Hardeep Singh should not be spared and be killed. Accused Kulwinder singh fired two gun shots with 12 bore gun towards complainant in order to kill him which hit on both legs of complainant. The remaining accused also raised lalkars. Then accused ploughed the Gawara crop of complainant forcibly with the help of tractor and caused loss of ₹. 50,000/- to him.

3) After pre-summoning evidence of complainant, accused were ordered to be summoned to face trial under Sections 324, 440, 427, 148, 149 of IP and 25, 27/54/59 of Arms Act. Ld. Trial court has not summoned the accused for commission of offence punishable under Section 307 of IPC. Feeling aggrieved, revisionist/complainant filed the present revision petition. Notice of the same was served upon respondents who are represented by their respective counsels. Record requisitioned.

4) Counsel for the revisionist/complainant argued that Ld. Trial court has committed material illegality by not summoning the respondents no. 1 to 7 to face trial under Section 307 of IPC read with Section 149 of IPC also as averments of complaint and pre-summoning evidence prima facie

disclosed the offence against the accused for the said offence.

5) Whereas, Ld. Counsel for the respondents argued that it is well settled that where the injuries are simple in nature, offence under Section 324 of IPC is made out. He relied upon law laid down in ***Kundan Singh vs. State of Punjab AIR 1989 (SC) 62*** wherein it was held that *we think that conviction of the appellant could be maintained only under Section 324 of the Indian Penal Code since PW6 and Pw7 received simple injuries. We accordingly allow the appeal and alter the conviction of the appellant to one under Section 324 of the Indian Penal Code for causing simple injuries to PW6 and PW7.*

6) No doubt, in that case, Hon'ble Apex Court has converted the conviction from one 307 of IPC to one 324 of IPC but that was so after completion of the trial and parties were allowed to lead evidence. In the present case, revisionist has appeared as witness at pre-summoning stage and has deposed that accused Rakesh Kumar took out 12 bore gun from the car and handed over the same to accused Kulwinder Singh. Then accused Kulwinder Singh fired two shots towards him with an intention to kill. Both the shots hit both legs and it has also been prima facie proved on record that complainant/revisionist has suffered gun shot injuries as Dr. Amandeep Singh Medical Officer appeared as CW2 after medico legal examination found following injuries on the person of revisionist:

- i. Lacerated punched wounds with inverted margins varying from 0.5 cm x 0.6 cm to 0.3 cm x 0.2 cm sizes. Present on posterior surface of left lower leg. Six in number. Fresh bleeding present. Corresponding

tear marks are present on pyjamas of patient. Advised x-ray.

ii. Lacerated punched wound with inverted margins varying from 0.4 cm x 0.3 cm to 0.3 cm x 0.2 cm sizes. Present on posterior surface of right lower leg. Four in number. Fresh bleeding present. Corresponding tear marks are present on pyjama of patient. Advised X-ray.

7) X-ray report has been proved as Ex CW2/C where in both legs multiple small sized radio opaque shadows were visible which proves that injuries on the person of revisionist were of gun shot. The injuries have inverted margins and radio opaque shadows were found inside wounds which shows that some foreign object was there inside wounds. So, from the preliminary evidence, it is clear that accused Kulwinder Singh fired two gun shots towards revisionist with an intention to kill and gun shots struck on the legs of the revisionist.

8) Ld. lower court has simply ignored the evidence by observing that *as far as the offence under Section 307 of IPC is concerned, perusal of X-ray report Ex CW2/C shows that the injuries are simple in nature. Therefore, the offence under Section 307 of IPC is not made out.*

9) The reason given by the ld. Trial court is not sustainable as in order to constitute the offence punishable under Section 307 of IPC, the nature of injuries suffered by injured are not only to be seen. Rather, it is intention or knowledge with which injuries have been caused and the weapon used for causing injuries which also has bearing upon decision.

Ld. Trial court has merely concluded that offence under Section 307 of IPC is not made out as injury is simple. Ld. Trial court has not discussed the testimony of revisionist where revisionist has categorically stated that gun shots were fired towards him with an intention to kill him.

10) In such circumstances, I am of the considered opinion that Ld. Trial court has committed material illegality in appreciating the evidence. So, the impugned order is set aside and revision petition filed by revisionist is allowed. Revisionist is directed to appear before Ld. Trial court on 27.5.2016 at 9.30 AM sharp and Ld. Trial court after hearing the revisionist shall pass fresh order regarding summoning of accused. Trial Court record be returned and revision file be consigned to the record room.

Pronounced in the Open Court on May, 19th -2016.

**(Virinder Aggarwal),
Addl. Sessions Judge,
Sri Muktsar Sahib.**

Present:- Sh. B.S. Sekhon, Adv, Counsel for Revisionist
Sh. Gopal Baghla, Adv, Counsel for Respondents no. 1, 2, 4
and 5
Sh. Deepak Girdhar, Adv, Counsel for Respondents No. 6 and
7

Arguments heard. Vide my separate detailed order of even
date, the present revision petition stands allowed in terms of the judgment.
Trial Court record be returned and appeal file be consigned to the record
room.

Pronounced in the Open Court on 19th of May, 2016.

(Virinder Aggarwal)
Addl. Sessions Judge
Sri Muktsar Sahib