

**IN THE COURT OF Dr.GAGANDEEP KAUR,
JUDICIAL MAGISTRATE IST CLASS, FATEHGARH SAHIB.
PB0303.**

CNR No. PBFG03000587-2016

CIS No.159/2016

Date of Instt. 06.05.16

Date of Decision:-.02.02.19

State

Versus

Jatinder Singh @ Lali son of Nirmal Singh R/o Peerjain, District
Fatehgarh Sahib.

---Accused.

F.I.R.No. 82 dated 14.04.16

Under Section : 324,506 IPC,

P.S.Fatehgarh Sahib.

Present :- Sh. Amtoj Singh ,A.P.P. for the State.

Accused on bail with Sh. G.S. Cheema, Advocate.

JUDGMENT

1. The above named accused has been sent up to face trial under section 324,506 of Indian Penal Code by the police of Police Station Fatehgarh Sahib.

2. Prosecution version in brief is that on 14.04.2016, one telephonic information was received to the effect that

Rajiv Kumar is admitted in hospital due to injuries. After receiving information, ASI Balbir Singh along with HC Om Parkash and Constable Palwinder Singh went to civil hospital, Fatehgarh Sahib and obtained medical opinion qua fitness of injured. Doctor opined injured fit to make statement. Rajiv Kumar complainant got his statement recorded to the effect that he is running a plastic and karyana store near Octroi No.4. Near his shop, one Lalli is running scooter repair shop. When Lalli goes to his shop in his car, he used to throw his plastic articles. Today at 08:45 A.M, he kept plastic articles in front of his shop and Lalli threw those articles. He asked him not to do so and accused Lalli abused him and stopped his car. He took sword from his car and tried to hit in his head. He raised his right hand to protect him and the sword hit on little finger of his right hand. He fell down and accused gave fist blows on his person. He raised alarm of "Maarta Maarta" and his son Chirag came from inside and rescued him from the clutches of accused. Thereafter, accused fled away along with his weapon. He was got admitted by his cousin Garish Chopra in Civil Hospital,

Fatehgarh Sahib where he is undergoing treatment. The reason for incident is that accused used to throw his plastic articles and he used to stop him from doing so. After recording statement, Constable Palwinder Singh was sent to police station to lodge FIR. Site was inspected and site plan was prepared. MLR revealing one sharp injury was obtained. Accused was arrested. Statements of witnesses under Section 161 Cr.P.C were recorded. On 22.04,2016, X-ray films and X-ray report were obtained. After completion of investigation, challan under Section 324, 506 of IPC was presented in the Court.

3. Upon presentation of challan and appearance of accused in the Court, copies of challan alongwith documents attached thereto were supplied to them free of costs in compliance with the provisions enshrined in Section 207 Cr.P.C.

4. From the perusal of the challan and documents attached therewith and after hearing the learned APP and learned defence counsel, a prima facie case punishable under section 324,506 of Indian Penal Code was found to have been made out against the accused. In consequence, the accused were charge sheeted under the said provision

of law. The contents of the charge so framed were read over and explained to them in simple Punjabi language to which they pleaded not guilty and claimed trial. Resultantly, the prosecution witnesses were ordered to be summoned.

5. In order to prove its case, prosecution has examined complainant Rajiv Kumar as PW-1, Chirag as PW-2, Dr.Parveen Kaur as PW-3, ASI Balbir Singh as PW-4, Sunil Kumar, Radiographer as PW-5, Dr.Jagdeep Singh as PW-6, Dr.Rohit Sharma as PW-7 and Dr.Amandeep Singh Bakshi as PW-8. Learned APP for the State gave up PW HC Om Parkash, C Palwinder Singh, ASI Mandeep Singh, Inspector Ajay Pal singh being unnecessary and PW Girish Chopra being won over by accused.

6. After closure of prosecution evidence, the accused were examined under Section 313 Cr.P.C so as to apprise them of all the incriminating circumstances appearing against them in the prosecution evidence. The accused denied all such allegations and claimed themselves to be innocent and stated that he is innocent and stated that he is falsely implicated by the police in the present case.

7. In defence accused has not examined any witness. Thereafter the accused closed defence evidence.

8. Learned APP for the State has argued that accused caused injury upon the person of complainant by way of sword. Case of prosecution stands duly proved from the evidence of prosecution witnesses. So, accused is liable to be convicted.

9. Learned defence counsel on the other hand has argued that the accused has been falsely implicated in present case. There are material contradictions in the statements of prosecution witnesses which are sufficient to shatter the version of prosecution. Moreover, there are also contradictions in oral as well as medical evidence. Keeping in view all these facts, accused is entitled to be acquitted.

10. I have heard learned APP for the State, learned defence counsel and have also examined the record of the case. The point of determination in this case before this court is:

11. Whether on 14.04.2016, at 08:40 A.M, accused voluntarily caused simple hurt to the complainant by means

of sword and has committed offence punishable under section 324 and 506 of IPC?

12. In order to prove its case, prosecution has examined complainant Rajiv Kumar as PW-1, who has deposed on the same lines as that of his statement Ex.PW1/A recorded with police officials on the basis of which preset FIR was lodged. In his cross examination, he has stated that he was referred from Civil Hospital, Fatehgarh Sahib to Rajindra Hospital on 17.05.2017. He went to Rajindra Hospital 10-11 times in 2016 and 2017 also. His bone became visible after removal of the stitches. Stitches were remove after two-three days of occurrence. The doctor applied bandages and stated that the operation will be conducted after the injury heals up. After two months, the injury dried up from outside but did not heal from inside as told by Dr.Bhupinder singh. Now, he has been operated upon.

13. Prosecution has further examined Chirag, son of complainant as PW-2, who has deposed on the same lies as that of complainant. In his cross examination, he has stated

that he tried to catch the accused but accused fled away along with sword.

14. To prove the medical evidence, prosecution has examined Dr.Parveen Kaur as PW-3, who has placed on record the computerized copy of MLR Ex.PW3/A, copy of MLR Ex.PW3/B, her opinion qua nature of injury Ex.PW3/C and the treatment record Ex.PW3/D. In her cross examination, she has stated that the injury was on inner side of little finger and it was not in between ring finger and the little finger.

15. To prove the investigation of the case, prosecution has examined ASI Balbir Singh as PW-4 who has proved the application moved to doctor at Civil Hospital, Fatehgarh Sahib Ex.PW4/A, statement of complainant Ex.PW1/A, ruqa Ex.PW4/B, FIR Ex.PW4/C, arrest memo of accused Ex.PW4/E, personal search memo Ex.PW4/F, recovery memo of sword Ex.PW4/G, application for obtaining X-ray films and opinion qua nature of injury Ex.PW4/H and Ex.PW4/J, copy of FIR Ex.PW4/C/1. In his cross examination, he has stated that site plan was prepared at the instance of Chirag.

He had not recorded statement of any independent witness. The weapon was already recovered before obtaining nature of injuries.

16. Prosecution has further examined Sunil Kumar, Radiographer as PW-5 who has brought the record regarding X-ray films and report Ex.PW5/A.

17. To prove the medical evidence, prosecution has further examined Dr.Jagdeep Singh as PW-6, who has proved the application moved by IO Ex.PW4/A, his report regarding nature of injuries Ex.PW6/A and X-ray report Ex.PW5/A. In his cross examination, he has stated that no stitches were applied on the injury as per record.

18. Prosecution has further examined Dr.Rohit Sharma as PW-7 who has brought the treatment record of complainant at Rajindra Hospital, Patiala Ex.PW7/A and has stated that the injured has disclosed that he sustained injuries one year ago. In his cross examination, he has stated that the tendon cut cannot heal by itself and operation is required immediately if the wound is healthy but if the wound is infected, operation cannot be conducted.

19. Prosecution has further examined Dr.Amandeep Singh Bakshi as PW-8, who has stated on oath that Rajiv Kumar was admitted in Rajindra Hospital, Patiala on 16.05.2017. Earlier, he was an OPD patient with case of injury flexor tendon cut little finger which he sustained about one year ago. He was advised surgery which was conducted by him and Dr.Saurav. The patient was discharge on 18.05.2017. In his cross examination, he has stated that there is no relation of admission of patient at Rajindra Hospital, Patiala with any civil hospital and it was not MLC case.

20. In present case, criminal law was sent into motion when the information was received on 14.04.2016 that complainant Rajiv Kumar is admitted in hospital. Thereafter, his statement was recorded and investigation was conducted. After completion of investigation, accused was put to trial.

21. Learned defence counsel has argued that accused has been falsely implicated in present case, which is clear from the evidence of prosecution witnesses. He has further argued that the alleged occurrence took place on 14.04.2016

and complainant was discharge from civil hospital, Fatehgarh Sahib on 16.04.2016 and then how he went to Rajindra Hospital on 17.05.2017 i.e. after the gap of one year. He has further argued that this fact is sufficient to prove that accused has been falsely implicated by the complainant due to his personal grudge. Perusal of file reveals that as per the version of complainant, occurrence took place on 14.04.2016 at 08:45 A.M. Thereafter, the complainant was got admitted in Civil Hospital on 14.04.2016 itself at 09:25 A.M, which is clear from MLR Ex.PW3/B. Admission record of complainant Ex.PW3/D further reveals that he was admitted in civil hospital, Fatehgarh Sahib on 14.04.2016 and was discharged on 16.04.2016. It is the version of complainant that injury with sword was caused on his little finger of his right hand and this fact stands corroborated from the MLR Ex.PW3/B. From the medical record of Civil Hospital, Fatehgarh Sahib, it is clear that the injured/complainant was got admitted due to the injury on his little finger of right hand. Further Dr.Parveen Kaur while stepping into witness box as PW-3 has stated that the injury was upon inner side of

little finger. PW-6 Dr.Jagdeep Singh while stepping into witness box has proved the application Ex.PW4/A i.e. the application moved by IO to Medical Officer, Civil Hospital, Fatehgarh Sahib. The application was moved at Civil Hospital, Fatehgarh Sahib but inadvertently while recording the evidence of PW Dr.Jagdeep Singh it was mentioned that he is posted at Rajindra Hospital whereas he had given the opinion when he was at Civil Hospital, Fatehgarh Sahib. The arguments addressed by learned counsel for accused is that when the complainant was discharge from the civil hospital, Fatehgarh Sahib in the year 2016, then how he can relate the record of Rajindra Hospital, Patiala of year 2017 with present case. However, prosecution has duly examined Dr.Rohit Sharma as PW-7 from Rajindra Hospital, Patiala who has specifically stated that the patient has disclosed that he sustained injury one year ago. The witness has specifically stated that there was tendon cut of right little finger. He has further stated that the said injury cannot heal itself and that if the wound is healthy, operation is immediately required but if the wound is infected, the

operation cannot be conducted. In present case as per version of complainant, his wound was not healthy earlier and he was referred from Civil Hospital, Fatehgarh Sahib to Rajindra Hospital, Patiala by the doctor. From the evidence of PW-7 Dr.Rohit Sharma, it is clear that the patient was earlier an OPD patient and thereafter he was admitted in the hospital to conduct the surgery. PW8 Dr. Amandeep Bakhshi conducted the surgery which is clear from his evidence. Moreover, the complainant in his evidence has stated that the wound had not healed up from inside though it had dried from outside. All these facts show that the injury was caused by the accused upon right little finger of complainant and the complainant got the treatment from Civil Hospital, Fatehgarh Sahib as well as Rajindra Hospital, Patiala. Moreover, the sword used by accused for causing the injury has also been recovered and the same was identified by complainant in the Court. Further in present case, only one injury has been attributed by complainant to accused which disproves the version of learned defence counsel that accused has been falsely implicated as in case of false implication,

complainant could have stated that more than one injury were caused by the accused. Learned APP for the State has placed reliance on Anwarul Haq vs. State of U.P 2005(3) Criminal Law Reporter 2011 in which it has been held that merely because knife has not been recovered during investigation, evidence of eye-witnesses cannot be discarded. In present case, the weapon used by accused to cause injuries upon the person of complainant i.e. sword has already been recovered. From the above said fact, it is clear that accused caused injuries upon the person of complainant with sharp weapon. The version of complainant stands further corroborated from the evidence of his son i.e. PW2 Chirag.

22. In criminal cases, burden of proof lies upon the prosecution to prove the guilt of accused beyond the shadow of reasonable doubt. In present case, prosecution has been able to prove the guilt of accused beyond the shadow of reasonable doubt by examining oral witnesses as well as from medical evidence.

23. In criminal cases burden of proof lies upon the prosecution to prove the guilt of accused beyond shadow of reasonable doubt. In

present case prosecution has been able to prove the guilt of accused beyond shadow of reasonable doubt under section 324,506 of Indian Penal Code. He is, therefore, held 'Guilty' and 'Convicted' under section 324,506 of Indian Penal Code.

24. Let the convict be heard on the quantum of sentence.

pronounced:
02.02.2019
Amandeep Kaur

(Dr.Gagandeep Kaur),
Judicial Magistrate Ist Class,
Fatehgarh Sahib.PB0303

QUANTUM OF SENTENCE.

Present :- Sh. Amtoj Singh ,A.P.P. for the State.
Convict in custody with Sh. G.S. Cheema,Advocate.

25. I have heard the convict on the quantum of sentence. The convict stated that he is poor and convict prayed for taking a lenient view on the quantum of sentence. The learned A.P.P. for the State opposed this plea.

26. Keeping in view the fact that only one injury has been caused by accused on the person of complainant and accused is facing trial since 2016. Consequently, the accused is ordered to be released on probation for a period of six

month, subject to his furnishing personal bond in the sum of Rs.10,000/- , thereby undertaking to be of good conduct and to appear to receive the sentence as and when called upon by this court during the period of six months. He shall maintain peace and good behaviour and shall not commit any offence during this period. He is also burdened with the cost of litigation to the tune of Rs. 1,000/-. Case property be disposed of according to Rules after the expiry of period of appeal/revision or as per the result of such appeal/revision as the case may be. File be consigned to the Judicial Record Room, Fatehgarh Sahib.

Announced:
02.02.19
Amandeep Kaur

(Dr.Gagandeep Kaur),
Judicial Magistrate Ist Class,
Fatehgarh Sahib.PB0303

State Vs Jatinder Singh

Present :- Sh. Amtoj Singh ,A.P.P. for the State.
Accused on bail with Sh.G.S. Cheema,Advocate

Accused closed his defence evidence. Arguments heard.
Vide my separate judgment of even date, accused has been convicted and released on probation accordingly. Personal bonds furnished which are accepted and attested. File be consigned to the Judicial Record Room, Fatehgarh Sahib.

Announced:
02.02.19
Amandeep Kaur

(Dr.Gagandeep Kaur),
Judicial Magistrate Ist Class,
Fatehgarh Sahib.PB0303