

**In the Court of Mrs. Manisha Jain, Addl. Chief Judicial Magistrate,
Barnala**

IPC Challan no.31 dated 21.02.2013
Filing no.....CHI/1638/2013
Decided on.....22.01.2015.

State

Versus

1. Jasvir Singh @ Kala s/o Bagga Singh,
2. Bagga Singh s/o Banta Singh, both resident of village Aspal Kalan.
...Accused.

F.I.R. no.4 dated 18.1.2013.
Under Sections 452/323/506/34 of IPC.
Police Station Barnala.
District Barnala.

Present: Sh.Arvind Markan, Ld. APP for the State.
Both accused on bail with counsel Sh.DS Dhaliwal, Adv.

JUDGMENT

1. The above named accused had been sent to face trial by the Officer Incharge P.S. Barnala for the commission of offences punishable under Sections 452/323/506/34 of IPC.

2. The brief facts of the case of the prosecution are that on 17.1.2013, a wireless message was received from SHO PS Dhanaula that Sukhchain Singh s/o Dalbara Sikngh r/o Aspal Kalan is admitted in Hospital and Investigating officer be sent. On this, ASI Kewal Ram along with other police officials in Government vehicle bearing no.PB19C-

5885 driven by HC Hardeep Singh, obtained the ruqa from PS Dhanaula and reached CHC Dhanaula and sought the opinion of doctor for recording the statement of injured. Doctor declared the patient unfit to make statement. Thereafter on 18.1.2013, ASI Kewal Ram along with other police officials reached CHC Dhanaula and doctor declared patient fit to make statement. ASI Kewal Ram got recorded the statement of injured to the effect that he is resident of village Aspal Kalan and is doing service with the contractor of liquor namely Pritpal Singh s/o Baldev Singh and liquor vend of their village is with Pritpal Singh. On 17.1.2013 at about 5 pm, he was sitting in the liquor vend of village Aspal Kalan where Gurtej Singh s/o Nek Singh was also sitting with him and they were having talk with each other then Kala Singh s/o Bagga Singh and Bagga Singh s/o Banta Singh, who were armed with daangs/sotis suddenly came inside the liquor vend and started beating him. Kala Singh gave daang blow on his head and Bagga Singh gave daang blow towards him which hit on his left eye. Gurtej Singh raised raula and in the mean time, Pritpal Singh who was sitting outside in the car came at the spot and thereafter accused ran away from the spot along with their respective weapons after threatening him. They also broke the liquor bottles with the help of daang. At that time, he was having Rs.12 thousand but after the scuffle only Rs.2 thousand were left in his pocket and remaining amount was taken away by accused. The motive behind the occurrence was that Parsa Singh brother of Kala Singh was named in a case of theft and they

were having suspicion that I had named him. Thereafter his father and Pritpal Singh arranged a vehicle and got him admitted in hospital. On the basis of his statement, the present case was registered and investigation was ensued and after completion of investigation, challan against the accused was presented in the court for trial.

3. On presentation of challan, the accused were supplied with the copies of documents free of costs as required under Section 207 Cr.P.C.

4. Finding a prima facie case, the accused were charge sheeted under Sections 452/323/506/34 IPC to which they pleaded not guilty and claimed trial.

5. In order to bring home the guilt of the accused, the prosecution examined Sukhchain Singh PW1, Gurtej Singh PW2, Pritpal Singh PW3 and thereafter learned Additional Public Prosecutor closed the evidence submitting that the complainant and eye witness have not supported the case of prosecution and no useful purpose shall be served by examining the remaining witnesses.

6. Since there was no incriminating evidence against the accused, the recording of the statement under Section 313 Cr.P.C was dispensed with.

7. I have heard the learned Additional Public Prosecutor and learned defence counsel and gone through the case file carefully.

8. The prosecution examined PW1 Sukhchain Singh complainant of this case, who specifically deposed that on 17.1.2013 t about 5 pm, he was sitting inside the liquor shop of his village along with Gurtej Singh and were talking with each other when suddenly two unknown persons with muffled faces came inside the shop and given him beatings with the daangs and sticks in their hands. He deposed that he made hue and cry and accused fled away from the spot. He specifically deposed that accused present in the court are not the same persons who have given him beatings on that day. This witness was declared hostile at the request of Learned Additional Public Prosecutor and was cross examined at length by learned Additional Public Prosecutor but he did not support the case of the prosecution.

9. PW2 Gurtej Singh and PW3 Pritpal Singh also did not corroborate the case of the prosecution and specifically deposed that the accused present in the court are not the same persons who have given beatings to Sukhchain Singh. These witnesses were also declared hostile at the request of Learned Additional Public Prosecutor and were cross examined at length by learned Additional Public Prosecutor but they did not support the case of the prosecution.

10. A perusal of the case file reveals that the complainant and eye witnesses have resiled from their previous statement. They are the star witnesses but they have not supported the case of the prosecution and

learned Additional Public Prosecutor has rightly closed the prosecution evidence as examination of remaining witnesses would have been a futile exercise. There is no incriminating evidence on record against the accused led by the prosecution.

11. As such, in view of the aforesaid discussion, the prosecution has failed miserably to prove the charges leveled against the accused. In such eventuality, Court is left with no option but to acquit the accused. Both the accused are acquitted of the charges leveled against them. Their bail bonds and surety bonds stand discharged. Case property, if any, be disposed off after the expiry of period of limitation or decision of revision or appeal, if any. File be consigned to the record room.

Pronounced in the open court.

January 22, 2015

(Manisha Jain)
Addl. Chief Judicial Magistrate
Barnala