

**UNIQUE IDENTIFICATION NO. PB-0086
IN THE COURT OF SHRI AVTAR SINGH,
ADDITIONAL SESSIONS JUDGE
PATHANKOT.**

CNR No. PBPO010028282018

SC-7/2018

Date of Institution: 16.02.2019

Date of decision: 17.02.2020

State	Versus	1. Bimla Devi wife of Om Parkash resident of village Bhagwansar, Tehsil and District Pathankot 2. Mandeep Singh alias Mandeep Kumar son of Om Parkash resident of village Bhagwansar, Tehsil and District Pathankot Accused
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FIR No.22 dated 23.06.2018

Under Section 307, 34 IPC

PS : Sadar, Pathankot

Present: Ms. Ambica Gupta Additional Public Prosecutor for State.
 Accused Mandeep in custody
 Accused Bimla Devi on bail
 Mr. Jyoti Lal Bheem Advocate defence counsel
 Mr. Raman Puri Advocate counsel for complainant

JUDGMENT :

1. The present challan was received by way of commitment and commitment order was passed by the Court of Shri Karan Aggarwal Judicial Magistrate First Class Pathankot.

2. The brief prosecution version is that on 10.06.2018, ASI Balkar Singh received a telephonic information from MHC Ashok Kumar to the effect that one Gurdasmal son of Des Raj is admitted in Chouhan Hospital Kotli as he has suffered injuries in a fight and that said ASI should visit Chouhan Hospital for further proceedings in this matter. On the basis of the information so received, ASI Balkar Singh reached hospital and then recorded the statement of Gurdasmal after obtaining the opinion of Doctor concerned in this regard. As per the statement of complainant, namely Gurdasmal, he is retired from Indian Army. On 06.06.2018 at about 9:00pm, he had gone to Doctor Harpal Singh (R.M.P) in order to take from medicine and that said Doctor was not present at his clinic. As per complainant he was waiting for the Doctor at the clinic when Manjit Singh son of Om Parkash armed with dattar and Bimla Devi wife of Om Parkash (empty handed) came there. Bimla Devi raised lalkara that “ *Gurdasmal nu far lo, eh bach ke na jave, Isnu sada reta gali vicho chukaun da majja dasde*”. At this Manjit Kumar gave datter blow on backside of the head of the complainant Gurdasmal which landed on the left side of the back of his head and as a result complainant fell down on the ground. He raised hue and cry. On listening to the same, son of complainant namely Bal Krishan came to the spot. On seeing son of the complainant, the accused fled away from the spot alongwith their weapon. The son of the complainant arranged for a vehicle and took the complainant at Civil Hospital wherein Doctor concern treated the complainant and also registered the MLR in this regard. The complainant further told that on 07.06.2018 he was referred

to Chouhan Hospital, Kotli. When he was admitted at Chouhan Hospital, Doctor concerned told him to go to Army Hospital and complainant went to Army Hospital after being referred by the Doctor of Chouhan Hospital. It is further stated by complainant in his statement that till date of his statement the respectables were trying to bring the parties to settlement but of no use and that action as per law should be taken against the accused Manjit Kumar and Bimla Devi. On the basis of the statement of the complainant and MLR and DDR No. 19 dated 10.06.2018 of offences under Section 323,324,34 IPC was registered. Thereafter, during investigation, doctor declared the nature of injuries on the person of complainant Gurdasmal as 'dangerous to life' and based upon the medical opinion, present FIR under Section 308,34 IPC was registered against the accused persons. Statement of witnesses under Section 161 Cr.P.C. were recorded. MLR of the complainant was obtained, X-Ray report and the medical report of the doctors regarding injury on the person of complainant was obtained, site plan of the place of occurrence was prepared, weapon of offence i.e. Dattar was recovered and was taken into police possession. During investigation, on 07.09.2018 complainant suffered a statement to the effect that in his previous statement on 06.06.2018, he got recorded the name of assailant as Manjit Kumar however the actual name is Mandeep Kumar. Accused were arrested and were got identified from the complainant and after completion of paper work and other necessary formalities, challan under Section 307, 34 IPC was presented against the accused.

3. The court of Shri Karan Aggarwal, JMIC Pathankot vide commitment order dated 02.02.2019 found that prima facie case under section 308 of IPC is made out against the accused and therefore the case being exclusively triable by the court of Sessions, the matter was committed to the court of Sessions and this court received the challan by way of commitment.

4. Before the commitment, the copies of the challan were supplied to the accused free of costs as provided in CrPC.

5. After commitment of the case to this Court of Session, charge under section 307 read with section 34 of IPC was framed against the accused to which they pleaded not guilty and claimed trial.

6. In order to prove the charge, the prosecution examined PW1 Gurdas Mal (complainant) who deposed that he has been retired from army. He did not gave any statement before the police. The police got his signatures on the blank paper. He does not remember the date and time of the occurrence. One day he was travelling on the motorcycle and he slipped. Bimla Devi and Mandeep singh accused have not caused any injuries to him. PW1 was declared hostile and cross examined by the learned Public Prosecutor.

7. Prosecution further examined PW2 Bal Krishan son of Gurdas Mal who deposed that he is labourer and on 06.08.2018 at about 09.00 PM, his father Gurdas Mal went to RMP Doctor Harpal Singh for taking medicine but the doctor was not present there and his father was waiting. He was present in his house and he heard alarm in the street and

went out and saw that blood was oozing from the head of his father and he took his father to civil Hospital Patthankot.

8. Prosecution further examined PW3 Kuldeep Kaur wife of Kewal Krishan who deposed that he is a housewife and on 06.08.2018 at about 09.00 PM his father in law Gurdas Mal went to RMP Doctor Harpal Singh for taking medicine but the doctor was not present there and her father in law was waiting. She was present in her house and she heard alarm in the street and went out and saw that blood was oozing from the head of her father in law and Bal Krishan took her father in law to civil Hospital Patthankot.

9. All the aforesaid three witnesses i.e. PW1 Gurdas Mal(complainant) PW2 Bal Krishan and PW3 Kuldeep Kaur did not support the prosecution version. Moreover PW1 Gurdas Mal complainant was declared hostile and subjected to cross-examination by learned Public Prosecutor but nothing favourable to the prosecution could be elicited from him. PW2 and PW3 have not deposed even a single word against the accused. As the remaining Pws are formal in nature, therefore the evidence of the prosecution was closed by order.

10. As there is no incriminating evidence against the accused, recording of his statement under section 313 Cr.P.C. stands dispensed with.

11. I have heard the learned Public Prosecutor, learned defence counsel and have also gone through the evidence on record.

12. The only material witnesses with prosecution to prove the guilt of the accused were PW1 Gurdas Mal(complainant) PW2 Bal

Krishan and PW3 Kuldeep Kaur but all of them have not deposed even a single word against the accused, rather, the complainant deposed that accused Bimla Devi and Mandeep Singh have not caused any injury to him. PW2 Bal Krishan and PW3 Kuldeep Kaur also deposed that at the time of occurrence, they were present in their home. Moreover during their cross examination both the witnesses PW2 Bal Krishan and PW3 Kuldeep Kaur admitted that Gurdas Mal received head injury by falling from the motorcycle and the motorcycle of Gurdas Mal slipped off in the street.

13. So virtually none of the witnesses has deposed any thing incriminating against the accused. All these star witnesses have not supported the case of the prosecution.

14. So keeping in view the aforesaid circumstances, it is held that prosecution has miserably failed to prove the guilt of the accused. Hence accused are acquitted of the charges framed against them. Accused Mandeep Singh is ordered to be discharged from custody immediately if not required in any other case. File be consigned to the records.

Pronounced in open Court on 17.02.2020

**(Avtar Singh),
Additional Sessions Judge
Pathankot/ PB-0086**

**Typed by
(Sawtanter Kumar)
Stenographer-II**