

**IN THE COURT OF SH JAGJEET SINGH, PCS, JUDICIAL
MAGISTRATE FIRST CLASS, LUDHIANA (UID No. PB0422)**

Criminal case no.192 Dated 20.03.2018

CHI/1041/2018

CNR No. PBLD 03-033680-2018

Date of Decision: 28.03.2018

State Vs 1. Harwinder Singh son of Sh. Gurdit Singh

2. Jagraj Singh son of Sh. Zora Singh

Both R/o Village Phalewal, P.S Jodhan, District Ludhiana.

.....Accused

FIR no. 62 dated 17.05.2017

u/s 323,341,506 and 34 IPC

PS Jodhan, Ludhiana

Present: Ms. Pooja Singal Ld APP for the State

Accused Harwinder Singh and Jugraj Singh on bail

represented by Sh G.S Grewal Advocate

JUDGMENT:

The accused have been sent up by SHO PS Jodhan, Ludhiana to face trial for the offence under Sections 323,341,506 and 34 IPC

2. Briefly stated case of the prosecution is that on 16.05.2017 MLR of Sukhwinder Singh son of Sh. Gurmail Singh R/o Village Phallewal,

District Ludhiana received and therefore HC Balwinder Singh alongwith other police official went to CHC Pakhowal where doctor declared the injured fit for making statement but the injured did not get record his statement as he was having pain in his forehead at that time. On 17.05.2017 complainant Sukhwinder Singh along with his brother Mohan Singh got recorded his statement before ASI Sukhwinder Singh to the effect that on 15.05.2017 at around 8:00 PM after having dinner he was going towards his fields for irrigation. When he came outside from his house and was present in street then from front side, Harwinder Singh son of Hardit Singh armed with iron rod and Jagraj Singh son of Sh. Zora Singh R/o Village Phalewal, P.S Jodhan, District Ludhiana armed with stick came there along with two other unknown persons armed with stick. The street light was on at that time. The accused Jagraj Singh raised lalkara to catch him and to teach him a lesson for installing the pipe in the street. Then accused Harwinder Singh gave iron rod blow upon him which hit upon upper part of his right eye. When he tried to run away then accused Jagraj Singh stopped him and got him down by pushing him. On this , he sustained injuries upon his head. All the accused kicked him while he was laying on the ground. He raised shouting and on this his brother Mohan Singh reached at the spot and other persons also gathered there. Thereafter, accused fled away from the spot along with their weapons. His brother arranged vehicle and got him admitted in Civil Hospital Pakhowal.

Accused Harwinder Singh and others also threatened him while running from the spot to teach him a lesson in future. After recording the statement of the complainant, present FIR was registered against the accused for the offence under section 323,341,506 and 34 IPC.

3. During investigation, accused were arrested, personal search of accused was conducted. Site plan was prepared. Statements of witnesses under section 161 Cr.P.C were recorded. After completion of necessary formalities, police report under section 173 Cr.P.C prepared and challan for the offence under sections 323,341,506 and 34 IPC against the accused has been presented before the Court.

4. Upon presentation of challan, the copies of challan and other documents attached therewith were supplied to accused free of costs, as envisaged under sections 207 Cr.P.C.

5. After going through the case file and finding a prima facie case having been made out against the accused, the formal charge under Sections 323/341/506/34 IPC was framed against all the accused and the same was read over and explained to the accused in simple Punjabi language to which they pleaded not guilty and claimed trial.

6. In order to prove its case, the prosecution has examined following witnesses:

(a) PW1 Sukhwinder Singh who is complainant and this witness resiled from his statement recorded before the police and thereafter

he was got declared hostile and has been cross examined by the prosecution.

(b) PW2 Mohan Singh who is brother of the complainant and this witness resiled from his statement recorded before the police and thereafter he was got declared hostile and has been cross examined by the prosecution.

As all the material witnesses i.e. complainant and other material witness have been declared hostile and remaining witnesses in the list of witnesses are formal in nature therefore no useful purpose would be served by proceedings further to examine the remaining witnesses as mentioned in the list of witnesses, thus, the evidence on behalf of the prosecution has been closed by order.

7. As there is no incriminating evidence against the accused came on record during the statement of prosecution witnesses, thus the recording of statement of accused under section 313 Cr.P.C was dispensed with.

8. I have heard the submissions made by the Learned APP for the State and Learned defence counsel and also gone through the material available on the record. From the submissions of the parties, following points are required to be fixed for determination:

(I) Whether the accused inflicted injuries upon complainant and also wrongly restrained and criminally intimidated him on 15.05.2017.

(ii) Conclusion

My point wise discussion is as under:

POINT NO. 1

9. The allegations against the accused are that on 15.05.2017 they inflicted injuries on complainant Sukhwinder Singh and also wrongly restrained and criminally intimidated him.

10. Now, in order to prove these allegations, the prosecution has examined PW-1 Sukhwinder Singh who is complainant of this case and he has stated that no occurrence took place between him and accused present in the court. This witness was got declared hostile and was cross examined at length by Learned APP for the State but nothing has been brought from the mouth of this witness which could render any help to the prosecution to connect the accused with the alleged occurrence.

11. Similarly, the prosecution has examined PW2 Mohan Singh who is eye witness and brother of the complainant and he also stated that no occurrence took place between the complainant and the accused present in the court. This witness has also been got declared and has been cross examined by the prosecution at length but nothing has been brought on the record to render any help to the prosecution.

12. As all the material witnesses i.e. complainant/injured and eye witness have been declared hostile and remaining witnesses in the list of witnesses are formal in nature being part of investigation therefore no

useful purpose would be served by proceedings further to examine the remaining witnesses as mentioned in the list of witnesses, thus, the evidence on behalf of the prosecution has been closed by order.

13. From the evidence of these witnesses, grave doubt has been arisen regarding the alleged occurrence dated 15.05.2017 and once these witnesses PW1 and PW2 have stated that no occurrence has taken place between the complainant PW1 and the accused present in the court, then in the light of such a testimonies there is nothing on record to prove the occurrence dated 15.05.2017 or to connect the accused with the said alleged occurrence. No other witness has been cited or even examined by the prosecution who could prove the occurrence and to connect the accused with the said occurrence.

14. Therefore, the prosecution has failed to prove that the accused inflicted injuries upon complainant and also wrongly restrained and criminally intimidated him on 15.05.2017.

CONCLUSION

15. In view of my above discussion, the prosecution has failed to prove the charge under section 323/506/341/34 IPC framed in the present case against the accused named above beyond all reasonable doubts. Accordingly, both the accused named herein above stands acquitted from the charges framed against them in the present case by giving them benefit of doubt. Their bail bonds and surety bonds stand discharged. Case

property, if any, be dealt with under rules. File be consigned to the Record Room, Ludhiana after due compliance.

Announced.

Jagjeet Singh, PCS,

(Directly typed).

Judicial Magistrate 1st Class,

Dated: 28.03.2018

Ludhiana

Yogesh Kumar

(UID No. PB0422)

Present: Ms.. Pooja Singal Ld APP for the State

Accused Harwinder Singh and Jugraj Singh on bail
represented by Sh G.S Grewal Advocate

One PW1 Sukhwinder Singh present and examined. The Ld APP for the state moved an application under section 311 CrPC to examine the witness Mohan Singh present in the court who is also eye witness in this case. The counsel for the accused gave his no objection on this application itself if the same is allowed. In view of the contents of the application as well as no objection given by the accused and as the witness Mohan Singh is present in the court, thus the present application is hereby allowed and permission is given to the prosecution to examine the witness Mohan Singh. Hence, present application stands disposed of.

PW2 Mohan Singh present and examined. As all the material witnesses i.e. complainant/injured and eye witness have been declared hostile and did not support the prosecution case as well as the remaining witnesses in the list of witnesses are formal in nature therefore as no useful purpose would be served by proceedings further to examine the remaining witnesses as mentioned in the list of witnesses, thus, the evidence on behalf of the prosecution stands closed by order.

As there is no incriminating evidence against the accused came on record during the statements of prosecution witnesses, thus the recording of statement of accused under section 313 Cr.P.C is dispensed with.

Arguments heard. Vide my separate detailed judgment of the even date, the accused are acquitted from the charges framed against them in this case. Their bail bond and surety bonds stand discharged. Case property, if any, be dealt with under rules. File be consigned to record room after due compliance.

Announced.

Jagjeet Singh, PCS,

(Directly typed).

Judicial Magistrate 1st Class,

Dated: 28.03.2018

Ludhiana

Yogesh Kumar

(UID No. PB0422)