

PBBT030005572018



Presented on : 16-01-2018
Registered on : 16-01-2018
Decided on : 02-02-2024
Duration : 6 years, 0 months, 17 days

IN THE COURT OF SHRI SANDEEP KUMAR:PCS
JUDICIAL MAGISTRATE IST CLASS
BATHINDA.
(UID No.PB0583)

File No. 51 dated 16.01.2018.
RT No. 55 dated 27.01.2020.
CNR No.PBBT03-000557-2018.
CIS No.CHI-24 of 2018.
Decided on :- 02.02.2024.

State of Punjab Versus 1. Parmeshwar Ram son of Kallu Dass.
2. Kajli daughter of Parmeshwar Ram.
3. Rita Devi wife of Parmeshwar Ram.
4. Rahul son of Parmeshwar Ram.
All resident of Lal Quarter, Kheta Singh Basti,
Bathinda.

.....Accused.

FIR No. 34 dated 05.05.2017
U/s 341/323/506/34 IPC
Police Station Thermal, Bathinda.

*Charge under Sections 323/341/506
of Indian Penal Code read with Section 34
of Indian Penal Code.*

Present: Sh. Tarun Goyal, Learned APP for State.
Sh. Satwir Singh Chauhan, Advocate for complainant.
Accused Parmeshwar Ram, Rahul, Kajli and Rita Devi on
bail with counsel Sh. Om Parkash Vinocha, Advocate.

Date of Offence	29.04.2017
Date of filing of FIR	05.05.2017
Date of filing Charge sheet	16.01.2018
Date of Framing of Charges	16.09.2019
Date of Commencement of evidence	07.12.2022
Date of the judgment	02.02.2024

Rank of the Accused	Name of Accused	Date of Arrest	Date of Release on Bail	Offences charged with	Whether Acquitted or convicted	Sentence Imposed	Period of Detention Undergone during Trial for purpose of section 428, Cr.P.C
1.	Parmeshwar Ram	11.05.2017	11.05.2017	Sections 323/341/506 IPC read with Section 34 of IPC	Acquitted	NIL	NA
2.	Kajli	11.05.2017	11.05.2017	Sections 323/341/506 IPC read	Acquitted	NIL	NA

				with Section 34 of IPC			
3.	Rita Devi	11.05.2017	11.05.2017	Sections 323/341 /506 IPC read with Section 34 of IPC	Acquitt ed	NIL	NA
4.	Rahul	16.08.2019	16.08.2019	Sections 323/341 /506 IPC read with Section 34 of IPC	Acquitt ed	NIL	NA

JUDGMENT:-

The above-named accused persons have been sent up by the Station House Officer of Police Station Thermal, Bathinda to face trial for offences under Sections 341, 323, 506, 34 of Indian Penal Code (hereinafter referred to as ‘IPC’).

2. The brief facts of the case of prosecution are that on 01.05.2017, an intimation was received from Madaan Hospital, Bathinda regarding admission of Sonia wife of Mohan, due to injuries sustained by her. On this, ASI Baldev Singh along with other police officials reached at Madaan Hospital, Bathinda and obtained doctor’s opinion to record the

statement of injured Sonia. Doctor gave his opinion and declared her as fit to record her statement. ASI Baldev Singh recorded her statement who stated that she is married to Mohan about 4 years ago and she had a son and at present she is pregnant. About three months ago she had undergone operation of appendix at Bihar and since there was no one to take care of her at her matrimonial home, due to this she is residing at her parental house at Bathinda. Saturday evening at about 5 p.m. there occurred an altercation with wife of Parmeshwar Ram who is also residing in the neighborhood of her parental house, regarding playing of children. On this, she called her husband and her daughter Kajli and provoked them and Kajli got caught the complainant from the neck and Parmeshwar Ram gave her beating and kick blows on her stomach, since she was pregnant, due to this a pain started in her abdomen. On this, her father and mother Neelam got her admitted at Madaan Hospital, Bathinda. The motive behind the occurrence is that there occurred an altercation between the parties regarding children.

After recording the statement, same was read over and explained to the complainant and she put her signatures in Hindi language on the same in token of its correctness. From the statement, offences under Section 323 read with Section 34 IPC was found to be committed and a rapat No. 33 dated 01.05.2017 was entered. Thereafter, complainant party came present before ASI Baldev Singh and asked him to visit at the spot and made an inquiry. On 05.05.2017, ASI Baldev Singh along with

other police officials visited at the spot in connection with inquiry about the occurrence, where complainant party along with her relatives were present, at the spot. Then again complainant Sonia got recorded her statement to ASI Baldev Singh similar to her earlier statement and it is submitted that all the accused persons wrongfully restrained her outside her parental house. After taking discharge from the hospital and due to injuries sustained, she could not disclose completely about the occurrence and today she narrated the whole incident. After recording the statement, same was read over and explained to complainant and he put his signatures in Hindi language on the same in token of its correctness.

IO sent ruqa for registration of FIR through C.Sandeep Singh. Thereafter, IO prepared rough site plan and statement of witnesses were recorded. Accused were arrested and released on bail as offences in nature are bailable. After obtaining doctor's opinion investigation was completed. After completion of investigation, challan against the accused persons namely Parmeshwar Ram, Kajli and Rita Devi presented before the Court of Sh.Parsmeet Rishi, PCS the then Learned JMIC, Bathinda on 16.01.2018.

3. On presentation of challan, copies of documents and other documents relied upon by the prosecution as envisaged under Section 207 Cr.P.C were supplied to accused free of cost.

4. During the course of proceeding, an application under Section 319 Cr.P.C. was filed by Ld. APP for the State and same was

allowed vide order dated 20.04.2019 passed by Sh.Sachal Babbar, PCS the then Learned JMIC, Bathinda, vide which accused Rahul was ordered to be summoned to face trial along with other co-accused for the offences under Sections 323/341/506 read with Section 34 of IPC.

5. From the perusal of the report under section 173 Cr.P.C. and the documents on record, a prima facie case punishable under Sections 323/341/506 IPC read with Section 34 IPC were made out against accused person and they were accordingly charge sheeted thereunder on 17.12.2020, to which they pleaded not guilty and claimed trial.

6. To prove its case, prosecution got examined PW-1 Sibu Ram father of complainant (Eye-Witness), PW-2 Neelam mother of complainant (Eye-Witness), PW-3 Dr.Usha Madaan (Medical Witness), PW-4 ASI Resham Singh (Attesting/Official Witness), PW-5 SCT Jaspal Singh (Official Witness), PW-6 Sonia (Complainant), PW-7 Retired Inspector Baldev Singh (Investigating Officer). Thereafter, vide separate statement dated 10.01.2024 Learned APP for the State closed prosecution evidence.

In brief the factual matrix of the prosecution witnesses is as under:-

i) The prosecution has examined PW-1 Sibu Ram father of complainant (Eye-Witness), who has deposed as per his statement made to the police and has corroborated the version of complainant and has identified accused person in the Court.

ii) The prosecution has also examined PW-2 Neelam mother of complainant (Eye-Witness), who has deposed as per her statement made to the police and has corroborated the version of complainant and has identified accused person in the Court.

iii) The prosecution has also examined PW-3 Dr.Usha Madaan, MBBS, M.S. Gynae, Madaan Nursing Home, Bathinda who has deposed that on 29.04.2017, one Sonia wife of Mohan was got admitted in the hospital in emergency and she was five months pregnant and she was having complaint of pain in abdomen. She was kept under observation and her BP was noted and she was having pain in her abdomen and she was supposed to stay in the hospital for 2-3 days, but she was discharged on 02.05.2017 from hospital. She further stated that on 12.05.2017 police moved an application to know and collect the record of said Sonia and she made her endorsement Ex.P5 in this regard on the said application which bears her signature at Point A and also gave the details of treatment, admission on the letter pad of the hospital Ex.PW3/A which bears her signature at Point A.

iv) The prosecution has also examined PW-4 ASI Resham Singh, No.621/BTI, now posted at P.S. Women, Bathinda, who being member of the police party headed by IO/ASI Baldev Singh, has corroborated the version of investigating officer and has proved the documents i.e. statement of complainant Ex.PW1/A, police proceedings Ex.PW4/A, FIR Ex.PW4/B,

rough site plan Ex.PW4/C and arrest memo Ex.PW4/D. This witness has also identified accused person in the Court.

v) The prosecution has further examined PW-5 SCT Jaspal Singh who brought the summoned record pertaining to DDR No. 33 dated 01.05.2017 and proved copy of the same Ex.PW5/A.

vi) The prosecution has further examined PW-6 Sonia (Complainant) who has deposed as per her statement made to the police and also proved on record her statement Ex.PW1/A and also identify her signature on the same at Point A. This witness has also identified accused person in the Court.

vii) Lastly, prosecution has examined PW-7 Retired Inspector Baldev Singh, Investigating Officer of this case, who deposed with regard to investigation conducted by him and has proved documents i.e. application moved to doctor regarding fitness of patient Ex.PW6/A, endorsement Ex.PW6/B, statement of patient/complainant Ex.PW6/C, police proceedings Ex.PW6/D, statement dated 05.05.2017 of complainant Ex.PW1/A, DDR Ex.PW6/E, ruqa Ex.PW6/F, FIR Ex.PW6/G, endorsement Ex.PW6/H, site plan Ex.PW6/I, arrest memo Ex.PW6/G. This witness has also identified accused person in the Court.

Thereafter, vide statement dated 10.01.2024 learned APP for the State closed prosecution evidence.

Sr. No.	NAME/RANK	NATURE OF EVIDENCE
PW1	Sibu Ram	Eye-Witness
PW2	Neelam	Eye-Witness
PW3	Dr. Usha Madaan	Medical Witness
PW4	ASI Resham Singh	Attesting Witness
PW5	SCT Jaspal Singh	Official Witness
PW6	Sonia	Complainant
PW7	Retd. Inspector Baldev Singh	Investigating Officer

Sr. No.	Exhibit number	Description
1.	Ex.PW1/A	Statement of complainant
2.	Ex.PW4/A	Police Proceedings
3.	Ex.PW4/B	First Information Report
4.	Ex.PW4/C	Rough Site Plan
5.	Ex.PW4/D	Arrest Memo
6.	Ex.PW5/A	DDR No. 33 dated 01.05.2017
7.	Ex.PW6/A	Fitness Application
8.	Ex.PW6/B	Endorsement
9.	Ex.PW6/C	Statement of Patient
10.	Ex.PW6/D	Police Proceeding
11.	Ex.PW6/E	DDR
12.	Ex.PW6/F	Ruqa
13.	Ex.PW6/G	First Information Report
14.	Ex.PW6/H	Endorsement of Ruqa
15.	Ex.PW6/I	Site Plan
16.	Ex.P5	Police Endorsement
17.	Ex.PW3/A	Opinion of doctor

7. Thereafter, statement of accused persons under section 313 Cr.P.C. were recorded, in which they were appraised of the entire

incriminating evidence appearing against him, to which accused pleaded innocence. The defence plea raised by accused persons is that they are innocent. Police has foisted this false case due to the pressure of politician because complainant used to do domestic work in his house. No quarrel took place as alleged in this case. It is not clear which child quarrelled with which child and their name are also missing in the record of this case.

8. In their defence, accused persons have not opted to lead defence evidence.

9. I have carefully heard Sh. Tarun Goyal, Learned APP for State, Shri Satwir Singh Chauhan, Advocate counsel for complainant, Shri Om Parkash Vinocha and have carefully gone through the evidence brought on the file, in light of arguments advanced by them.

10. Ld. APP for the State and learned counsel for complainant while referring to the testimonies of prosecution witnesses has argued that prosecution has been able to prove its case through testimonies of PW-6 Sonia (Complainant). They further argued that other link evidence of prosecution is complete on record. It has been further contended that all the prosecution witnesses are corroborative and supportive on all material aspects. Therefore, accused persons are liable to be convicted.

11. On the other hand, Shri Om Parkash Vinocha, Advocate learned counsel for accused persons has vehemently argued that prosecution has miserably failed to prove its case against accused persons. He further argued that prosecution has failed to explain the delay in

lodging the present FIR and to connect the present accused person with the alleged occurrence. He further argued that accused persons have been falsely implicated in the present case due to the grudge of altercation took place because of children and it has been prayed that accused are liable to be acquitted.

12. The points of determination against the accused persons are:

1) “Whether on dated 29.04.2017 at about 05.00 p.m. in the area of P.S. Thermal, Bathinda all the above-named accused in furtherance of common intention of each other caused the simple hurt to Sonia?”

2) “Whether on the same date, time and place, all the above-named accused in furtherance of common intention of each other wrongfully restrained complainant?”

3) “Whether on the same date, time and place, all the above-named accused in furtherance of common intention committed criminal intimidation by threatening complainant with dire consequences?”

13. The case of prosecution against accused persons is that on 29.04.2017 at about 05.00 p.m. all the accused persons in furtherance of their common intention wrongly restrained the complainant Sonia outside her parental house and voluntarily caused hurt on her person and also threatened her with dire consequences.

14. In order to prove its case, prosecution got examined PW-6 Sonia (Complainant) who deposed as per her statement and supported the case of the prosecution. Remaining independent witnesses examined by the prosecution also supported the complainant’s version and

corroborated the case of the prosecution and also identified accused persons present in the Court.

15. On the other hand, learned defence counsel at the very outset argued that accused have been falsely implicated in the present case due to grudge of altercation took place between the parties for playing of children and prosecution has failed to explain the delay in lodging the present FIR. He further argued that prosecution has failed to connect the accused persons with the alleged occurrence. Perusal of the ocular evidence led by the prosecution and the charge-sheet filed by the police, occurrence in question took place on 29.04.2017 in the evening at about 05.00 p.m. and as per the evidence of medical witness, Dr.Usha Madaan who deposed as PW-3, complainant was got admitted in the hospital on same day i.e. 29.04.2017 and was discharged from the hospital on 02.05.2017. Further, complainant got recorded her first statement on 01.05.2017 while undergoing treatment in Madaan Hospital, Bathinda and on the basis of the same DDR Ex.PW5/A was entered for the offence punishable under Section 323 IPC read with Section 34 IPC. Thereafter, again on 05.05.2017, complainant got recorded her supplementary statement Ex.PW1/A reiterating her entire version as stated earlier on 01.05.2017 except the allegations that accused persons had wrongly restrained her outside her parental house and on the basis of the same present FIR Ex.PW4/B was registered. However, complainant as well as other prosecution witnesses failed to disclose the reason that why the

intimation was not given to the police regarding the alleged occurrence on same day and why the intimation was sent to police on 01.05.2017 after delay of almost two days. Further, complainant PW-6 during her cross-examination herself admitted the fact that she did not move any complaint to any police authorities regarding the alleged occurrence from 29.04.2017 to 01.05.2017. The similar fact has been admitted by PW-7 Retired Inspector Baldev Singh (Investigating Officer) that no intimation was received on 29.04.2017 from the complainant or from the doctor regarding the alleged occurrence and regarding the admission of complainant in the hospital on 29.04.2017. She further stated that she never met any police officials in this case nor got recorded her statement after her first statement in the hospital. She further stated that she does not know what was written in her statement dated 01.05.2017 as she does not know how to read and write Punjabi language. Further, PW-7 (Investigating Officer), during his cross-examination has admitted that he had not investigated or prepared any document related to the present case from 01.05.2017 to 05.05.2017. Thereby, prosecution has failed to explain beyond shadow of reasonable doubt the delay caused in lodging the present FIR and to connect the accused persons with the alleged occurrence.

16. Further, PW-1 Sibu Ram (father of complainant) and PW-2 Neelam (mother of complainant) stated during their cross-examinations that their statements were recorded by the police on 01.05.2017 and

further stated that they were not the eye-witness of the alleged occurrence and they deposed as per the version of their daughter. They further stated that they put their signatures on the statement on the asking of police officials and the same was not read over and explained to them.

17. Hence, taking into account, the cumulative effect of all the attendant circumstances in the present case, this court is of the considered opinion that prosecution has miserably failed to prove its case against the accused persons beyond shadow of reasonable doubt and to connect the present accused with the alleged occurrence and to explain the delay in lodging the present FIR. Accordingly, points of determination are decided against prosecution and ***accused Parmeshwar Ram, Kajli, Rita Devi and Rahul*** facing trial before the Court are acquitted of the **charges under Sections 323/341/506 of IPC read with Section 34 of IPC** framed against them, due to lack of evidence. Their bail bonds and surety bonds are discharged. Case property be disposed of under rules, after the expiry of period of appeal/revision, if any. File be consigned to Judicial Record Room, Bathinda, after due compliance.

Pronounced in open court:
Date: 02.02.2024

(Sandeep Kumar), PCS
Judicial Magistrate 1stClass
Bathinda. (UID No.PB0583)

Vikas
Stenographer-III

CNR No: PBBT030005572018 CIS No: CHI-24-2018

STATE OF PUNJAB VS PARMESHWAR RAM AND ORS.

Present: Sh. Tarun Goyal, Learned APP for State.
 Sh. Satwir Singh Chauhan, Advocate for complainant.
 Accused Parmeshwar Ram, Rahul, Kajli and Rita Devi on
 bail with counsel Sh. Om Parkash Vinocha, Advocate.

Arguments heard. Vide separate judgment of even date, ***accused Parmeshwar Ram, Rahul, Kajli and Rita Devi*** facing trial before the Court have been acquitted of the charges framed against them. Their bail bonds and surety bonds are discharged.

They are directed to furnish bail bonds in sum of Rs. 10,000/- with one surety in the like amount as per provisions of section 437A of Cr.P.C with undertaking to appear before the higher Court as and when such Court issues notice in respect of any appeal or petition filed against the judgment in present case for six months.

They requested that they are unable to arrange the surety bonds today and he be released on furnishing personal bonds. Request considered and allowed. Personal bonds in the sum of Rs.10,000/- furnished and the same are accepted and attested. They are directed to furnish surety bonds under Section 437-A Cr.P.C within one week from today.

Case property, if any be dealt as per rules after the expiry of period of limitation prescribed for filing the appeal or revision, and its result if any. File be consigned to the Judicial Record Room, Bathinda.

Pronounced in open court:
Date: 02.02.2024

(Sandeep Kumar), PCS
Judicial Magistrate 1st Class
Bathinda. (UID No.PB0583)

Vikas
Stenographer-III

Sandeep Kumar, PCS
JMIC/Bathinda
Date of Decision:-02nd February, 2024