

PBSGD1000012-2019

Presented on : 16.10.2019
Registered on : 16.10.2019
Decided on : 12.05-2025

IN THE COURT OF
Sub Divisional Judicial Magistrate, At Moonak
(Presided Over by Sh. Harjinder Singh)

CHI/146/2019

State

Versus

1. Kulwinder Singh @ Kala @ Franchi son of Major Singh
2. Veerdavinder Singh @ Deep son of Major Singh both resident of Village Rampura Jawaharwala, PS Lehra.
3. Gurwinder Singh @ Neetu son of Chajju Singh, resident of village Gohrenab, PS Lehra.
4. Lakhvir Singh @ Lakha son of Nahar Singh, resident of village Lehal Kalan.

.....Accused.

FIR No. 78 dated 05.04.2019
U/s. 323, 341, 506 and 34 IPC
Police Station:- Lehra

Present:- Sh. Chander Goyal, Ld. APP for State,
Accused Kulwinder Singh in custody represented by Sh. A.S. Jakhar, Advocate.
Accused Gurwinder Singh @ Neetu on bail with counsel Sh. Munish Goyal, Advocate.
Accused Veerdavinder Singh @ Deep in custody represented by Sh. Sunil Kumar, Advocate (Free Legal Aid Counsel)
Accused Lakhvir Singh @ Lakha on bail with counsel Sh. P.N. Sharma Advocate

JUDGMENT

1. The above named accused has been sent up to this Court by the officer in-charge of Police Station Lehra to face trial for the

alleged commission of offences punishable under Sections 341, 323, 324, 506, 34 of IPC.

2. The factual matrix of the case as unfolded by the prosecution in police report U/s 173 Cr.P.C. is that on 04.04.2019, a medical ruqa along with MLR of injured Sukhpreet Singh received from CH Lehra. In medical ruqa, doctor has mentioned that victim was referred to CH Sangrur. On 05.04.2019 HC Sita Ram along with police party reached at CH Sangrur where he moved an application with regard to the fitness of injured to give the statement and doctor declared patient as fit. He got recorded the statement of injured Sukhpreet Singh in which he stated that he is working as a labourer and he is living with Sukhpal Kaur wife of Hardev Singh, near Siba School Ward No. 10, Lehra from about two and a half years. On 04-04-2019, he and his aunt Sukhpal Kaur and daughter of the said Gurpreet Kaur were returning home on a Motorcycle Marka T.V.S. PB-11-AB-3106 after buying a milk from Lehra. When he and his aunt's daughter Gurpreet Kaur reached near canal bridge at Lehra, the time was about 8.30 PM that Kala Singh alias Frenchy, Deep Singh, residents of Gobindpura Jawaharwala, Neetu Singh Mistri r/o ghorenab and Lakha Singh r/o Lehra surrounded his motor-cycle who all were armed with rod, Gandasa, sticks. Deep Singh gave gandasa blows which hit on his head. He along with motor-cycle fell down on the ground. Kala Singh gave rod blows which hit on his hand. Neetu Singh gave stick blows which hit on his back and right leg of lower part. Lakha Singh gave stick blows which hit on left hand. Then they raised cry of 'Marta Marta' and many people gathered at the spot. After seeing the people

gathered at the spot, all the accused fled away from the spot along with their weapons. Then he called his aunt Sukhpal Kaur at the spot, who arranged a vehicle and took him and Gurpreet Kaur to Civil Hospital Lehra. From there he referred to Civil Hospital Sangrur. Accused were arrested vide arrest-cum-intimation memo and their personal search were also conducted. Rough site plan was prepared. Statements of witnesses were recorded. After completion of investigation, final report under Section 173 of Criminal Procedure Code was presented in the Court against accused.

3. Upon appearance of the accused in the court, requisite copy of the police report and the documents sent with it relied upon by the prosecution was supplied to him, free of costs.

4. Upon considering the police report under Section 173 Cr.P.C and the documents sent with it and hearing the prosecution and the accused, charge under section 341, 323, 505 and 34 of IPC was framed against the accused, to which they pleaded not guilty and opted trial. Following this, the prosecution was called to lead evidence.

5. Prosecution has examined ASI Gamdoor Singh as PW1, ASI Sita Ram (IO) as PW-2, Dr. Sonal Garg as PW-3.

6. Statement of accused as envisaged under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence was put to accused to which the accused denied all the allegations leveled against them and pleaded false implication. In defence, accused did not examine any witness and closed the same.

7. The cardinal principle of criminal jurisprudence is that the prosecution must prove the case against the accused beyond any

reasonable doubt and the onus to prove the guilt of the accused to the hilt is on the prosecution and it never shifts. The prosecution has to stand on its own legs so as to prove its case and it can't derive any benefit from the defence version. In the light of these principles, I proceed to determine the criminal liability of the accused.

8. The learned APP for the State has argued as per the story of the prosecution. He has further submitted that all the prosecution witnesses examined in the present case have fully supported the story put forth by the prosecution. So, on these lines he finally prayed for conviction of the accused as per law.

9. On the other hand the learned defence counsel has vehemently argued that the prosecution miserably failed to connect the accused with the present case. He further argued that no eye witness examined by the prosecution to prove the occurrence. The prosecution has failed to prove on record its story beyond shadow of all reasonable doubt. So, the accused is entitled to acquittal.

10. I have carefully heard and well considered the respective submissions of the parties and have perused the case file carefully.

11. In order to discharge the onus, prosecution examined ASI Gamdoor Singh as PW1 who deposed that on 08.04.2019, he was posted at PS Lehra and was member of the investigation headed by IO. He also proved on record arrest-cum-intimation memo Ex.PW1/B and personal search of accused Ex.PW1/B, recovery memo Ex.PW1/C to Ex.PW1/F.

12. Prosecution has further examined ASI Sita Ram as PW-2, who being Investigating Officer of this case deposed on the lines of the

prosecution and proved on record application regarding fitness of injured Ex.P1, statement of Sukhpreet Singh Ex.P2, Ruqa Ex.P3, FIR Ex.P4, site plan Ex.P5, accused were arrested arrest-cum-intimation memo Ex.PW1/B and personal search memo Ex.PW1/B, recovery memo Ex.PW1/C to Ex.PW1/F,

13. Prosecution further examined Dr. Sonal Gaur, MO as PW 3 who deposed that on 04.04.2019, she medico legally examined injured Sukhpreet Singh and proved medical ruqa Ex.PW3/A, copy of MLR Ex.PW3/B, pictorial diagram Ex.PW3/C computerize copy of MLR Ex.PW3/D.

14. After appreciating the evidence led by the prosecution, this Court is of the considered view that prosecution has failed to prove the allegations leveled against the accused. In the present case, it is the prosecution version that on 04.04.2019 at about 08:30 PM the accused persons caused hurt and restraint to the complainant Sukhpreet Singh and Gurpreet Kaur by way of weapons. The complainant was got admitted for medical treatment by Sukhpal Kaur. The evidence of the complainant could not recorded because complainant has since expired. The prosecution has failed to examine the eye witnesses despite availing numerous opportunities. As regard to other witnesses IO just proved the sequence of investigation and Doctor just proved the medical report but their evidence are not sufficient to connect the accused persons with the alleged occurrence. Hence, there is no worth evidence on record to prove that accused persons have caused any injuries to the victim.

15. Needless to say that the prosecution is to prove case against the accused beyond all shadows of reasonable doubts. In **State**

of Haryana Vs. Shamsheer Singh, reported in 2006 (3) RCR (Criminal) 346 (P&H) (DB), the Hon'ble Punjab & Haryana High Court held that in a criminal trial, prosecution is cast with very serious duty to bring on record quality evidence in order to substantiate its allegation against an accused person. It cannot seek conviction of any person without bringing substantial evidence on record as it becomes extremely difficult for the Court to pronounce a person guilty in the absence of full-proof evidence nailing guilt by the accused person.

16. Keeping in view the above discussion, it becomes clear that the prosecution miserably failed to prove the guilt of the accused. So, the accused cannot be convicted in the present case and the benefit of doubt will be given to them. Hence, the accused **Kulwinder Singh @ Kala @ Franchi, Veerdavinder Singh @ Deep, Gurwinder Singh @ Neetu and Lakhvir Singh @ Lakha** facing trial in the present case stands **acquitted** of the charge framed against them. Their bail bonds and surety bonds also stands discharged. File be consigned to record room.

Pronounced in open court.
Dated: 12.05.2025
Amit, Stenographer-II

Harjinder Singh, PCS
Sub Divisional Judicial Magistrate
Moonak (PB0421).

Present:- Sh. Chander Goyal, Ld. APP for State,
Accused Kulwinder Singh in custody represented by Sh.
A.S. Jakhar, Advocate.
Accused Gurwinder Singh @ Neetu on bail with counsel
Sh. Munish Goyal, Advocate.
Accused Veerdavinder Singh @ Deep in custody
represented by Sh. Sunil Kumar, Advocate (Free Legal Aid
Counsel)
Accused Lakhvir Singh @ Lakha on bail with counsel Sh.
P.N. Sharma Advocate

Accused closed their defence evidence. Arguments heard.

Vide my separate detailed Judgment of even date, accused **Kulwinder Singh @ Kala @ Franchi, Veerdavinder Singh @ Deep, Gurwinder Singh @ Neetu and Lakhvir Singh @ Lakha** are acquitted of the charges framed against them. The bail bonds and surety bonds stands discharged. Case property be dealt with as per rules after the expiry of period of appeal or revision, if any. File be consigned to the Record Room.

Pronounced in open court.
Dated: 12.05.2025
Amit, Stenographer-II

Harjinder Singh, PCS
Sub Divisional Judicial Magistrate
Moonak (PB0421).