

**IN THE COURT OF SH. MUNISH GARG, PCS, SUB DIVISIONAL
JUDICIAL MAGISTRATE, SAMRALA**
(UNIQUE IDENTIFICATION NO. PB 0310)

CNR No.PBLDC1-000916-2017

Police Challan No.94/1

Computer Information No. CHI/253/2017

Date of Institution: 01.11.2017

Date of Decision: **02.02.2018.**

State Versus 1. **Hapreet Singh @ Goggi** son of Pritpal
Singh

2. **Gurpinder Singh @ Guri** son of
Harjinder Singh

Both residents of Neelon Kalan, P.S.

Samrala, District Ludhiana.

..... Accused.

FIR No.232 dated: 17.08.2017

Under Section 323, 341, 324, 201, 427, 34 of IPC

Police Station: Samrala.

Present: Ms. Shashi Bala, APP for the State.

Accused on bail with counsel Shri Gurjit Singh, Advocate.

JUDGMENT:-

1. Accused above named have been sent up by the SHO of Police Station, Samrala to face trial for offences punishable under Sections 323, 341, 324, 201, 427, 34 of Indian Penal Code, 1860 (hereinafter referred as **IPC**), on the allegations that on 14.08.2017 at

Munish Garg, PCS
SDJM/Samrala/02.02.2018

about 22 hours in the area of village Neelon Kalan, P.S. Samrala both accused in furtherance of their common intentions voluntarily caused simple hurt on the person of complainant Gurdeep Singh with sharp edged weapon i.e. Sword and blunt weapon and wrongfully restrained the complainant Gurdeep Singh and thereafter both accused caused mischief and damaged the motor-cycle bearing no. PB-10-PG-7324 of the complainant. On that basis of statement of complainant, FIR was registered. During investigation, site plan of place of occurrence was prepared, accused were arrested, medical evidence was collected, statements of the witnesses were recorded and after completion of necessary formalities of the investigation, challan against the accused was prepared and presented in the Court.

2. On appearance of the accused in the Court, copies of necessary documents as relied upon by the prosecution were supplied to the accused free of costs as required under Section 207 Criminal Procedure Code, 1973 (hereinafter referred as **Cr.P.C.**).

3. Finding a prima facie case under Sections 323, 341, 324, 427, 201 of IPC against the accused, charges against the accused were framed. The contents of the charges were read over and explained to accused in vernacular, to which accused pleaded not guilty and claimed trial.

4. In order to bring home the guilt of the accused, prosecution has examined **PW.1 Gurdeep Singh (complainant), PW.2 Gursewak Singh, PW.3 Amninder Singh and PW.4 HC Naib Singh**. Thereafter,

since the complainant and the eye witnesses have turned hostile and have not supported the prosecution version and finding no purpose to be served by examining the other witnesses, the evidence of the prosecution was closed by order.

5. Statements of accused under Section 313 of Cr.P.C. were recorded wherein all the incriminating evidence appearing against the accused was put to the accused to which accused pleaded false implication and innocence.

6. Accused opted not to lead defence evidence.

7. **I have heard the learned APP for the State as well as learned defense counsel and with their able assistance have also gone through the judicial file carefully and minutely.**

8. The accused in this case have been booked for commission of offences punishable under Sections 323, 341, 324, 427, 34, 201 of IPC. To prove its case, the prosecution has examined **PW.1 Gurdeep Singh (complainant)**, who has deposed on oath that he is an agriculturist and they are two brothers and name of his elder brother is Jarnail Singh. On 14.08.2017 at about 10:00 PM when he was coming back to his house from his field then on the way some unidentified persons with muffled faces caused injuries to him with some rods and swords. Gursewak Singh and Amninder Singh came on the spot and unidentified persons also caused injuries to Gursewak Singh and they fled away from the spot with their respective weapons. He was taken to Civil Hospital, Samrala for medical treatment by his brother Jarnail Singh and he has not given any

statement to the police. He has never seen the accused persons. Thereafter, learned APP for the State requested that the witness is suppressing the truth and be permitted to be cross-examined by her. On request of the learned APP for the State said witness was allowed to be cross-examined, but nothing fruitful came out from cross-examination of Gurdeep Singh. Rather, he deposed that he has never made any statement with the police. He was confronted with portion A to A1, B to B1, C to C1, D to D1 of his alleged statement Mark A and portion A to A1 of alleged statement Mark B made before police but he denied having made such statements.

9. Prosecution further examined **PW.2 Gursewak Singh**, who has deposed on oath that he is labourer and on 14.08.2017, some unidentified with muffled faces caused injuries to Gurdeep Singh with iron rod and swords. On hearing raula he reached at the spot to save Gurdeep Singh then unidentified persons also caused injuries to him. He has not given any statement to the police. The accused are not the same persons who caused injuries to him. Thereafter, learned APP for the State requested that the witness is suppressing the truth and be declared hostile and further be permitted to be cross-examined by her. On request of the learned APP for the State said witness was declared hostile and was allowed to be cross-examined, but nothing fruitful to the case of the prosecution came out from the cross-examination of Gursewak Singh. Rather, he deposed that he has never made any statement with the police. He was confronted with portion A to A1 of his alleged statement which is exhibited as Mark C made before police but he denied having made such

statement.

10. Prosecution also examined **PW.3 Amninder Singh**, who has deposed on oath that he is an agriculturist and they are two brothers and two sisters. On 14.08.2017 he saw some unidentified with muffled faces causing injuries to Gurdeep Singh and Gursewak Singh with iron rod and swords. On hearing raula, he reached at the spot. He also deposed that he has not given any statement to the police. The accused present in the Court never caused injuries to Gurdeep Singh and Gursewak Singh and accused present in the Court are not the same persons who caused injuries to Gurdeep Singh and Gursewak Singh. He did not identify the accused. Thereafter, learned APP requested that the witness is suppressing the truth and be declared hostile and be permitted to be cross-examined by her. On request of the learned APP for the State said witness was declared hostile and was allowed to be cross-examined by APP for the State, but nothing fruitful to the case of the prosecution came out from the cross-examination of Amninder Singh. Rather, he deposed that he has never made any statement with the police. He was confronted with portion A to A1 of his alleged statement Mark D made before police but he denied having made such statement.

11. On careful perusal of the above said evidence of PW.1 Gurdeep Singh, PW.2 Gursewak Singh and PW.3 Amninder Singh, I am of the considered view that the identity of the accused is not established on record as these witnesses have not supported the prosecution version and have stated that accused present in the Court are not the persons who

have caused occurrence in hand. Testimony of PW.4 HC Naib Singh is not sufficient as far as identification of accused is concerned. Therefore, the identification of the accused is not established on record. Hon'ble Supreme Court of India in **Krishna Janardhan Bhat Vs. Dattatraya G. Hegde, 2008(1) Recent Criminal Reports Page 695**, has held that **Presumption of innocence is a human right. The prosecution evidence should be of such, which should lead to no other hypothesis except guilt of the accused.**

12. In view of the given circumstances, this Court is of the considered view that the prosecution has failed to prove its case against all the accused beyond shadow of reasonable doubt. Consequently, accused Harpreet Singh @ Goggi and Gurbinder Singh @ Guri are acquitted from the charges framed against them under Sections 323, 341, 324, 427, 34, 201 of IPC by giving them benefit of doubt. Bail bonds and surety bonds of accused are discharged. Case property be disposed of as per rules. Original documents be returned to rightful claimant against proper receipt and verification as per rules after period of appeal or revision on filing certified copy of the same. File be consigned to Record Room, Samrala after arranging, numbering and indexing the same.

**Pronounced in open Court on
02nd day of February, 2018**
(Pooja, Steno-III)

**(Munish Garg) PCS
Sub Divisional Judicial Magistrate
Samrala. (UID No. PB 0310)**