

PBGD030004512021



Presented on : 19-01-2021
 Registered on : 19-01-2021
 Decided on : 02-03-2023
 Duration : 2 years, 1 months, 14 days

**IN THE COURT OF
 Additional Chief Judicial Magistrate
 at, Gurdaspur
 (Presided Over by Sh. Madan Lal)**

C.I.S. No:- CHI-109-2021

CNR No. PBGD03-0004512021

State

Versus

Baljinder Singh son of Ajaib Singh, resident of Village Bhumbli, Police Station Tibber, Tehsil and District Gurdaspur.

....Accused.

**FIR No.163, dated 5.12.2020,
 under Sections 431, 432, 506 IPC &
 Section 66 of Information & Technology, Act,
 Police Station : Tibber.**

Present:- Mr. Vikram Kashyap, APP for the State.
 Accused on bail, with Shri K.S.Dhillon, Advocate.

JUDGMENT:-

1. The above named accused has been sent up to this court by the Officer-in-charge of Police Station Tibber, to face trial under Section 431, 432, 506 IPC of Indian Penal Code (hereinafter referred as to IPC) & Section 66 of Information & Technology, Act.

2. Brief matrix of the prosecution case is that present FIR was registered on the complaint moved by complainant Didar Singh son of Chanan Singh, resident of Village Bhumbli to the police, wherein he has stated that he is agriculturist by profession. One Baljinder Singh @ Labha son of Ajaib Singh, resident of Village Bhumbli had purchased land in Village Bhumbli, approximately 15 years ago and same comprised of a pre-existing watercourse (Khal) which has been existing on the said land since the last more than 50 years. The said Khal/watercourse has been in continuous use for irrigating various agricultural fields in the vicinity. In December, 2018, accused Baljinder Singh, in a illegal and arbitrary manner, demolished/destroyed the aforementioned Khal /watercourse, thereby causing severe inconvenience, loss and harassment to all such persons whose land was being irrigated with the water supply from the said watercourse/ Khal. Thereafter, proceedings were initiated against above-said accused Baljinder Singh, before the concerned Irrigation Authorities and order dated 06.06.2019 was passed whereby Baljinder Singh was directed to reconstruct the Khal/Watercourse illegally demolished/destroyed by him, but the accused had refused to comply with the directions of the authorities and concerned authorities under police protection on 14.11.2019 carried out the reconstruction/repair work of Khal/Watercourse in question, demolished by accused Baljinder Singh. Thereafter, accused

Baljinder Singh had viral a video on Facebook levelling false allegations against the complainant. The said video clearly demonstrates that accused Baljinder Singh @ Labha was also threatening the complainant and his family members. Thereafter, on 14.03.2020, accused Baljinder Singh again uploaded second video clip on social media Facebook filmed at the site of repaired watercourse/Khal extending threat to complainant and his family members. Again on 29.03.2020, at about 9-30 p.m, above-said accused Baljinder Singh viral third video on social media Facebook, extending threats to complainant and his family members. On the basis of complaint, inquiry into the matter was conducted and present FIR has been registered against accused Baljinder Singh. Accused was arrested in this case and site plan of the place of occurrence was prepared with its correct marginal notes. Investigating Officer recorded the statements of the witnesses and after completion of all the necessary formalities of investigation, challan against the accused was presented in the Court.

3. On appearance of accused in the court, copies of documents relied upon by prosecution were supplied to the accused, free of costs, as required under section 207 Cr.P.C.

4. Finding a prima-facie case, charge under Section 431, 432, 506 IPC of Indian Penal Code & 66 of Information & Technology, Act was framed

against the accused, to which, he pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution has examined complainant Didar Singh as PW1, Jatinderjit Singh as PW2, Surinderjit Singh as PW3, Rabinder Pal Singh as PW4, Balbir Singh, Zileadar as PW5, Inderjit Singh as PW6, Patwari Manpreet Singh as PW7, Inspector Kulwant Singh as PW8 and thereafter, evidence of the prosecution was closed by order.

6. The statement of accused under section 313 Cr.P.C. was recorded putting to him the entire incriminating evidence to which accused pleaded innocence and false implication and opted to lead evidence in defence.

7. In defence evidence, accused has produced copy of Jamabandi for the year 2018-2019 Ex.D1 and copy of Fard Haqiat Ex.D2 and closed his defence evidence.

8. I have heard the arguments of Ld. APP for the State, Ld. defence counsel and have also gone through the judicial record very carefully.

9. The following point requires determination in the present case:-

“Whether accused had committed mischief by causing wrongful loss to the public drainage (Khal) in December, 2018 and committed criminal intimidation to complainant Didar Singh (PW1) and viral videos against his (complainant) reputation ?

10. In order to prove its case, the prosecution has examined complainant Didar Singh (PW1), and the witness has deposed as per his

complaint (Ex.P4) given to the police. The prosecution has further examined Jatinderjit Singh (**PW2**), Surinderjit Singh (**PW3**), who have also deposed as per version of complainant Didar Singh (PW1) corroborating his testimony. Further prosecution has examined Rabinder Pal Singh (**PW4**) and the witness has prepared C.D Ex.P2 from the pen drive produced by complainant Didar Singh. Prosecution has further examined Balbir Singh Zileadar, Dhariwal, Irrigation Department (**PW5**) and the witness has deposed that in compliance with the order dated 06.06.2019, passed by Mandal Officer, Canal Department, Gurdaspur, he had restored water course/Khal, which was leading from land of Baljinder Singh towards the land of Didar Singh and accused Baljinder Singh had dismantled the water course and merged the same in his agriculture land and he has proved his report Ex.PW5/A and site plan Ex.PW5/B, prepared at the spot. Further prosecution has examined Inderjit Singh, Assessment Clerk, Irrigation Department, Gurdaspur (**PW6**) and the witness has proved the site plan of Barabandi of Village Bhumbli as Ex.PW5/B. Prosecution has further examined Patwari Manpreet Singh, Canal Department, Dhariwal (**PW7**) and the witness has also proved site plan Ex.PW5/B. Further, prosecution has examined Inspector Kulwant Singh (**PW8**) and the witness has proved Inquiry Report Ex.PW8/A, conducted by Incharge Cyber Crime Cell Inspector Harpal Singh, endorsement of DSP Palwinderjit Kaur on the same is Ex.PW8/B, FIR

Ex.PW8/C, site plan Ex.PW8/D arrest-cum-intimation memo Ex.PW8/E of accused and Memo Ex.PW8/F vide which SIM card taken into police possession.

10. This is the whole of the prosecution evidence.

11. Commencing the arguments, learned APP for the State has argued that it is clear from the testimony of complainant Didar Singh (PW1) that accused had committed mischief by causing wrongful loss to the public drainage (Khal) in December, 2018 and committed criminal intimidation to complainant Didar Singh (PW1) and posted videos on social media against his reputation . The testimony of complainant Didar Singh (PW1) is further being corroborated by the testimony of other prosecution witnesses. Learned APP for the State has argued that prosecution has duly prove its case against accused beyond the shadow of reasonable doubt, hence accused is liable to be convicted and punished under Section 431, 432, 506 IPC & Section 66 of Information and Technology Act.

12. On the other hand, the contention of learned defence counsel is that prosecution has failed to prove that on which specific date accused Baljinder Singh had damaged the Public Drainage/Khal in question, hence no offence is made out against the accused. It is contended that prosecution has failed to prove that accused had committed mischief by causing damage to

Public Drainage/Khal in question, hence accused is entitled to be acquitted on this score. It is further contended that prosecution has failed to prove that accused had posted videos on social media against reputation of complainant Didar Singh, hence no offence under Section 66 of Information & Technology Act is made out against accused. Arguing on these lines, learned defence counsel prayed for acquittal of accused.

13. Heard. Record perused. The contention of learned defence counsel is that prosecution has failed to prove that on which specific date accused Baljinder Singh had damaged the Public Drainage/Khal in question. The present FIR was registered on the complaint (Ex.P4) of complainant Didar Singh, in which complainant has stated that in December, 2018, accused Baljinder Singh had demolished the Public Drainage/Khal in question and caused inconvenience, loss and harassment to the persons who had irrigating their land with the Khal in question. But it may be mentioned here that complainant Didar Singh (PW1) neither in his complaint (Ex.P4) nor in his evidence given in the Court on oath as PW1 had disclosed that on which specific date accused had damaged to Public Drainage/Khal in question. None of the prosecution witness has deposed that on which specific date, accused had damaged the Public Drainage/Khal in question. Admittedly, complainant Didar Singh (PW1) in his examination-in-chief has deposed that accused

Baljinder Singh had destroyed the Public Drainage/Khal in question but the witness in his cross-examination has deposed that accused Baljinder Singh had not demolished the Public Drainage/Khal in question. Similarly, prosecution witness Jatinderjit Singh (PW2) in his examination-in-chief has deposed that accused Baljinder Singh had demolished the Public Drainage/Khal in question but the witness during his cross-examination has deposed that accused Baljinder Singh had not demolished the water course in question nor any occurrence took place in his presence and accused Baljinder Singh never gave abuses to complainant Didar Singh in his presence. Further, Surinderjit Singh (PW3) also in his examination-in-chief has deposed that accused has dismantled the Public Drainage/Khal in question and abused Didar Singh and threatened to kill him on posted video on social medial, but the witness during his cross-examination has deposed that no dispute took place in his presence near the Khal in question. Further, Balbir Singh (PW5) in his examination-in-chief has deposed that accused Baljinder Singh had dismantled the water course in question and merged the same in his agriculture land. But during the course of his cross-examination, the witness has deposed that he was not present at the spot, when Baljinder Singh had dismantled the water course in question. It is pertinent to mention here that as per prosecution story, Khal in question had been dismantled by accused in December, 2018 but complainant

Didar Singh had moved complaint Ex.P4 to the Senior Superintendent of Police, Gurdaspur on 03.07.2020 after about 18 months. Thus, there is inordinate delay of about 18 months in lodging complaint/FIR and prosecution has failed to explain the delay about 18 months in lodging of complaint/FIR regarding demolition of Khal in question. Thus, prosecution has failed to prove on which specific date accused had dismantled the water course in question and further prosecution has failed to prove eyewitness in whose presence accused Baljinder Singh had dismantled the water course in question. Further, there is inordinate delay of about 18 months in lodging of complaint/FIR regarding demolition of Public Drainage/Khal in question. It is pertinent to mention here that complainant Didar Singh neither in his complaint Ex.P4, moved to the police nor in his evidence given in the Court on oath as PW1 has disclosed the detail of property in which Khasra number water course/Khal in question is existing. Thus, prosecution has failed to prove its case. So far as the offence under Section 66 of Information & Technology Act is concerned, complainant Didar Singh (PW1) in his complaint (Ex.P4) as well as in his evidence has deposed that accused had abused him and posted videos on Facebook levelling false allegations against him on 14.11.2019 when the concerned authorities had reconstructed the watercourse/Khal and thereafter, accused had again posted second video on

social media Facebook on 14.03.2020 as well as third video on 29.03.2020 levelling false against complainant and extended threats to him. In order to prove its case, prosecution has examined Rabinder Pal Singh (PW4) and the witness has deposed that upon request of complainant Didar Singh (PW1) , he had prepared C.D (Ex.P2) from the pen driver. It is also pertinent to mention here that as per statement of complainant, accused had posted videos three times on social media but in the C.D Ex.P2, there is video of recording of one time only. It may be mentioned here that undersigned had played CD in computer in which even a single word has not been said against complainant Didar Singh. Thus no offence under Section 66 of Information & Technology is made against against the accused.

14. In view of above above discussion, the prosecution has miserably failed to prove its case against the accused beyond shadow of reasonable doubt. Therefore, point for determination is decided against the prosecution and in favour of the accused and accused Baljinder Singh is hereby acquitted of the charge framed against him. Accused is directed to make compliance of Section 437-A of Cr.P.C. File be consigned to the record-room, Gurdaspur after due compliance.

Pronounced in the open Court:
Dated:- 02.03.2023.

Madan Lal
Addl. Chief Judicial Magistrate,
Gurdaspur. (UID No.PB0200)

C.I.S. No:- CHI-76-2021

CNR No. PBGD03-0002452021

State Versus Baljinder Singh

Present:- Mr. Vikram Kashyap, APP for the State.
Accused on bail, with Shri K.S.Dhillon, Advocate

Vide separate statement accused closed his defence evidence.

Arguments heard. Vide my separate Judgment of even date, accused Baljinder Singh has been acquitted of the charges framed against him. He is directed to comply with the provisions of Section 437-A of Cr.P.C. File be consigned to the record-room, Gurdaspur after due compliance.

Pronounced in the open Court:
Dated:- 02.03.2023.

Madan Lal
Addl. Chief Judicial Magistrate,
Gurdaspur. (UID No.PB0200)