

IN THE COURT OF Ms.AASHIA JINDAL, PCS,
JUDICIAL MAGISTRATE, IST CLASS
SAMANA.

CIS No. : CHI-104-2016
CNR No. : PBPTC10004552016
Date of Decision : 11.02.2025

State	Versus	1. Sukhdev Singh, son of Hazur Singh, resident of village Bhamna. 2. Gurpreet Singh son of Sukhdev Singh, resident of village Bhamna. 3. Sahib Singh son of Balkar Singh, r/o Guru Teg Bahadur Nagar, Samana. 4. Balbir Singh son of Bhagwan Singh resident of New Saran Patti, Ward no.19, Kahangarh Road, Samana. 5. Baldev Singh son of Hazur Singh 6. Karamjit Singh son of Hazur Singh both residents of village Bhamna. Accused

FIR No.54 dated 15.04.2015

Under Sections:- 336,447,511,506,201,148,149 IPC and 25,27 of Arms Act

Police Station :- Sadar Samana.

Present: Sh. Gaurav Kohli, APP for the State.
Accused Sukhdev Singh, Gurpreet Singh, Sahib Singh, Balbir Singh, Baldev Singh and Karamjit Singh on bail with counsel Sh.B.S. Dhanoa, Advocate.

JUDGMENT

1. The above stated accused has been forwarded by the Officer In-charge, Police Station, Sadar Samana before this Court to face trial for the

commission of offences punishable under Sections 336,447,511,506,201,148,149 IPC and 25,27 of Arms Act.

2. Brief facts of the present case are that on 15.04.2015, IO HC Bhagwant Singh alongwith police party were present at Bus Stand village Gajewas in connection with patrolling and checking of suspected persons, where complainant Kulwinder Singh came present and got recorded his statement to the effect that on 15.04.2015 at about 1.30PM he went to his field and he saw that Sukhdev Singh, Baldev Singh, Karamjit Singh, Gurpreet Singh, Sahib Singh alias Nirmal Singh, Balvir Singh and one more person whose name he does not know were standing in the harvested fields. They were carrying sticks and dangs. Sukhdev Singh was carrying gandasa, Baldev Singh carrying soti, Karamjit Singh was carrying soti, Gurpreet Singh was carrying soti, Sahib Singh was having danda. Sahib Singh who was driving Swaraj Tractor entered into his(complainant) field with intent to take possession of the land and destroyed the straw of harvested crop. When he tried to stop the accused to do so, all accused persons stated abusing him and intimidated with dire consequences. All of them chased him. Balbir Singh shot a fire from his 12 bore rifle They said they they spared him today but next time they will kill him. He ran away from the spot after saving his life. The motive behind the occurrence was that they entered into an agreement to sell dated 7.6.1994 with Tarlok Singh regarding purchasing of land from Tarlok Singh and a litigation regarding the said land is pending between them and Sukhdev Singh in the Hon'ble High Court. He further stated that he is in possession of the said land since 1994. He along with his father were going to

inform the police but police met them at Bus Stand village Gajewas. On such statement of complainant, FIR under Section 336,447,511,148,149 IPC and 25/27/54/59 of Arms Act was registered against the accused persons. Police reached at the spot and prepared rough site plan of place of occurrence. Swaraj Tractor 735FE of blue colour without number plate was taken into police possession. Sticks were also taken into police possession from the spot. Then on receiving information, IO alongwith police party reached at the motor, where from accused Sukhdev Singh, Gurpreet Singh, Sahib Singh and Balvir Singh apprehended. One rifle duple barrel 12 bearing no.70298-1978 National Small Arms Co alongwith 3 live cartridge and two empty/hole of cartridges of marka KF-12 alongwith belt were recovered, which were taken into police possession. Gandasa used by accused Sukhdev Singh was also taken into police possession. Rough sketch of gandasa was also prepared. Accused were arrested and put behind the police lock up. On 26.05.2015 accused Sahib Singh produced original RC of Swaraj Tractor before IO which was taken into police possession. Remaining accused could not be arrested during raiding at their houses. On 18.06.2015, MHC after taking one parcel from Malkhana i.e. 12 double barrel rifle containing 2 empty cartridges of 12 bore rifle and one parcel containing 3 live cartridges of 12 bore rifle and parcel containing 10 live cartridges of 12 bore rifle and after getting docket number, got deposited the same in the office of FSL, Mohali for testing. On 12.10.2015, HC Bhagwant Singh got sanction to purchase of 12 live cartridges of rifle from DM Patiala. An application for declaring innocent was moved by accused Karamjit Singh and Baldev Singh. After

conducting inquiry DSP(D) found that they were involved in the present case. On 28.11.2015, HC Bhagwant Singh raided at the house of accused Balvir Singh and received copy of Arms license of rifle 12 bore. Accused further stated that original arm license was lying in the office of DM Patiala for the purpose of renewal. Mechanical report of 12 bore rifle was received. As per order of LD. ASJ, accused Karamjit Singh and Baldev Singh were joined into the investigation and they were released on bail. Statement of witnesses under Section 161 Cr.P.C. During investigation offence under Section 201 IPC was added. recorded. After the completion of investigation, challan for the offence under Section 336,447,511,506,148,149 IPC and 25/27/54/59 of Arms Act against accused was presented in the Court.

3. On appearance of accused in the Court, copies of all the documents sent along with the final report and relied upon by prosecution, were supplied to them, free of costs, as per mandatory requirements of section 207 Cr.P.C.

CHARGES FRAMED AGAINST THE ACCUSED:

4. Finding prima facie case for commission of offences punishable under section 336,447,511,506,148,149 IPC and 25/27/54/59 of Arms Act, charge was accordingly framed against accused person, to which they pleaded not guilty and claimed trial.

BRIEF SUMMARY OF PROSECUTION EVIDENCE:

5. In order to substantiate its case against accused, prosecution got examined complainant Amrik Singh as PW1, Kulwinder Singh as PW2, ASI Sher Singh, fard witness as PW3, ASI Bhagwan Singh, Investigating Officer as PW4,

Ashwani Bansal, Senior Assistant as PW5, Rajinder Singh as PW6, Sukhvinder Singh as PW7, Azeem Biag, Clerk Motor Registration clerk as PW8, ASI Paramjit Singh as PW9 and Harwinder Singh Kanungo as PW10. Thereafter, prosecution evidence was closed by order.

STATEMENT OF THE ACCUSED U/S 313 CrPC:

6. Statement of accused under Section 313 Cr.P.C was recorded, in which all the incriminating evidence appearing against him in the prosecution evidence, was put to him, to which he pleaded innocence and false implication. Accused has opted to lead evidence in his defence but did not lead any defence evidence but accused Sukhdev Singh tendered documents i.e. judgment and decree sheet dated 15.04.2023 titled as Sukhdev Singh Vs. Kulwinder Singh as Ex.DW1/1 to Ex.DW1/2, Judgment and decree sheet dated 29.08.2002 titled as Jagdish Singh Vs. Tarlok Singh as Ex.DW1/3 to Ex.DW1/4, certified copy of appeal Judgment and decree sheet dated 3.8.2005 as Ex.DW1/5 to Ex.DW1/6, certified copy of order dated 24.1.2019 passed by the Hon'ble High Court in case titled as Jagdish Vs. Tarlok Singh as Ex.DW1/7, certified copy of order dated 12.02.2001 passed by Sh. S.S. Panesar, ACJSD, Samana as Ex.DW1/8, decree sheet as Ex.DW1/9, khasra girdawari for the year 2002 to 2021 as Ex.DW1/10, Jamabandi for the year 2014-2015 as Ex.DW1/11 and therefore the accused closed their defence evidence.

7. Ld. APP for the state argued that the prosecution has fully proved its case against the accused by leading cogent and convincing evidence. Therefore, the accused be convicted and sentenced as per law.

8. The Learned counsel for accused vehemently argued that that a false case has been registered against the accused persons and there is not an iota of evidence to link the present accused with the alleged offence as the link evidence in the present case is entirely missing. He further argued that accused persons have been falsely implicated in the present case and accused have never caused any occurrence as stated by complainant. He further argued that sale deed was executed on 07.06.1994 of 2 kila land and therefore possession of land was given to accused Sukhdev Singh and now Sukhdev Singh is owner of the said land. He further argued that no document regarding possession of complainant has been taken into police possession by the IO. He further argued that map placed on file but no khasra number on it has been mentioned. He further argued that no ownership proof of tractor of accused. He further argued that no case property has been produced before the court on any testimonies of the witnesses. He further argued that result of examination in report says that 12 bore rifle on file not same as furnished, when rifle is only in non working condition, then it creates doubt on the prosecution story. Complainant Kulwinder Singh who appeared as PW2 has admitted during his cross-examination that accused Sukhdev Singh has filed a civil suit against his father regarding the land in dispute. He further admitted that on 12.2.2021 the said case has been decreed by the court of Sh. S.S. Panesar, ACJSD, Samana. He further admitted that Sukhdev Singh is owner in possession over the suit property and thereby complainant himself admitted the possession of accused over the suit land. Therefore, he prayed that in view of the above said arguments, the accused deserves to be acquitted.

ARGUMENTS ADVANCED BY THE PROSECUTION AND BY THE DEFENCE

9. This Court has heard the submissions made by Learned APP for the State and Learned defence counsel and has gone through the evidence led on record. From the entire case, following point for determination emerges out of:

1. *Whether on 15.04.2015 at about 01.30PM in the area of Village Bhamna accused drove your tractor No.HR 11A-2809 in farm in rash and negligent manner as to endanger to human life or personal safety of other and destroyed the straw grown in the farm , thereby accused also committed criminal trespass in a plot possessed by the complainant and in furtherance of common object with each other criminally intimidated Kulwinder Singh and others and were armed with deadly weapons. Accused Balbir Singh was found in possession of Rifle DBBL, three live cartridge two empty cartridges alongwith Patta/belt without any permit or license and fired from the said rifle and thereby committed the offence?*
2. *Whether the evidence led on record is sufficient to hold the accused guilty for commission of offences punishable under section 336,447,511,506,148,149 IPC and 25/27/54/59 of Arms Act, ?*

POINTS NO.1 & 2 FOR DETERMINATION :-

10. Both these points have been taken up together for the sake of brevity and to avoid repetition. In order to prove its case, prosecution examined **Kulwinder Singh complainant as PW-2**, who deposed that on 15.04.2015 at about 1.30PM he went to his field and he saw that Sukhdev Singh, Baldev Singh,

Karamjit Singh, Gurpreet Singh, Sahib Singh alias Nirmal Singh, Balvir Singh and one more person whose name he does not know were standing in the harvested fields. They were carrying sticks and dangs. Sukhdev Singh was carrying gandas, Baldev Singh carrying soti, Karamjit Singh was carrying soti, Gurpreet Singh was carrying soti, Sahib Singh was having danda. Sahib Singh who was driving Swaraj Tractor entered into his(complainant) field with intent to take possession of the land and destroyed the straw of harvested crop. When he tried to stop the accused to do so, all accused persons started abusing him and intimidated with dire consequences. All of them chased him. Balbir Singh shot a fire from his 12 bore rifle. He stated that accused said they spared him on that day but next time they will kill him. He has stated that the motive behind the occurrence was that they entered into an agreement to sell dated 7.6.1994 with Tarlok Singh regarding purchasing of land from Tarlok Singh and a litigation regarding the said land is pending between them and Sukhdev Singh in the Hon'ble High Court. He further stated that he is in possession of the said land since 1994. His statement was recorded by IO. He identified the accused persons present in the court.

11. Thereafter, prosecution got examined **Amrik Singh as PW1**, he has stated that on 26.05.2015 Sahib Singh alias Nirmal Singh came to P P Gajewas and presented RC of Swaraj Tractor memo.HR 11A-2809 before IO which was taken into police possession by IO vide memo Ex.PW1/A.

12. Thereafter, prosecution got examined **ASI Sher Singh as PW3**, who remained associated with the IO HC Bhagwant Singh during investigation of the

present case. He deposed on the lines of prosecution story. He has proved on record documents i.e. statement of complainant Kulwinder Singh as PW2/A, arrest memo of accused Jagjit Singh Ex.PW3/A, ruqa Ex.PW3/B, FIR Ex.PW3/C, endorsement on FIR Ex.PW3/D, possession memo of RC of tractor Ex.PW3/E, he also tender into evidence as Ex.PW3/F in which he stated regarding deposit of case property of present case with the MHC Paramjit Singh.

13. Then prosecution examined **ASI Bhagwant Singh, Investigating Officer** as PW4, who reiterated the version of challan. He proved on record documents i.e. rough site plan Ex.PW4/A, arrest memo of accused Balbir Singh, Sahib Singh, Gurpreet Singh and sukhdev Singh Ex.PW4/B to Ex.PW4/E, personal search memo Ex.PW4/F to Ex.PW4/I, possession memo of Swaraj Tractor FE without number plate alongwith wooden stick Ex.PW4/J and one rifle DBBL 70298-1978 alongwith three live cartridges, two pallets/empty cartridges vide separate possession memo Ex.PW4/K, possession memo of gandasa Ex.PW4/L, rough sketch of gandasa Ex.PW4/M, custody memo of stick Ex.PW4/N, rough site plan of recovery Ex.PW4/P and Ex.PW4/Q, arrest memo of accused Karamjit Singh and Baldev Singh Ex.PW4/R, personal search Ex.PW4/S, possession memo of jamabandi and girdawari Ex.PW4/T and Ex.PW4/U, possession memo of RC Ex.PW3/E, application Ex.PW4/V in order to ascertain the Arm license, report of official concerned Ex.PW4/W, report of Ballistic expert Ex.PW4/X, sanction to prosecute the accused under 39 of Arms Act Ex.PW4/Y, application Ex.PW4/Z moved to Registrarion Authority Gohana in order to ascertain the ownership of tractor, report of concerned official Ex.PW4/Z/1,

photocopy of Arm License taken into possession vide memo Ex.PW4/Z/2, copy of arm license Ex.PW4/Z/3, RC of tractor Ex.PW4/Z/4 and case property DBBL gun no.70098-1978 Ex.MO1. He identified the accused persons present in the court.

14. Thereafter, prosecution got examined **Ashwani Bansal as PW5**, he stated that on 2.12.2015 he was posted as Dealing Clerk at PLA Branch in DC Office Patiala and on that day an application Ex.PW4/V was moved by police in order to ascertain license holder of license NO.874/DM/P/99/PS/Samana and on that application Sukhvir Singh the then Branch Incharge furnished report Ex.PW4/W of PLA Branch DC Office Patiala and as per report the said license stands in the name of Balbir Singh son of Bhagwant Singh.

15. Thereafter, prosecution got examined **Rajinder Singh, Junior Assistant as PW6**, he deposed regarding sanction no.11/Peshi/ADM dated 4.4.2016 bearing signatures of Sh. Mahinder Pal the then ADM Patiala which is Ex.PW4/Y.

16. Thereafter, prosecution got examined **Sukhbir Singh son of Bhaktawar Singh as PW7**, he stated that he owned a Tractor marka Swaraj 735 Blue in colour bearing no.HR 11A-2809 and RC of the same stands in his name and also in the name of Ganeshi, Bhim sons of Mithu Ram, resident of village Puthi. Further he deposed that he sold the said tractor on 20.03.2012 to Nirmal Singh alias Sahib Singh. In this regard his statement was recorded by police.

17. Thereafter, prosecution got examined **Azeem Baig as PW8**, he stated that he has brought the original summoned record pertaining to Tractor

marka Swaraj 735 Blue in colour bearing no.HR 11A-2809 and as per their record the same is in the name of Sukhbir Singh son of Bakthawar and also in the name of Ganeshi, Bhim sons of Mithu Ram, resident of village Puthi, copy of RC is Ex.PW8/A which bears signatures of Clerk Manoj Kumar which he identified as he used to work alongwith him and used to seen him signing and writing the documents.

18. Thereafter, prosecution got examined **ASI Paramjit Singh as PW9**, who tendered his duly sworn affidavit Ex.PW9/A. He stated that on 15.04.2015 he was posted at P.S, Sadar Samana. On that day he made the DDR regarding deposit of case property and in the register no.19. Further he deposed regarding deposit of case property by IO with him i.e. 12 double barrel rifle containing 2 empty cartridges of 12 bore rifle, one parcel containing 3 live cartridges of 12 bore rifle, one tractor Swaraj 735 and currency notes of personal search of accused parcel containing 10 live cartridges of 12 bore rifle and after getting docket number, got deposited the same in the office of FSL, Mohali for testing. He further deposed regarding receiving of FSL report. He further deposed that as long as the case remained in his possession neither he tempered with the same nor allowed to anyone to interfere with the same. He has corroborated and supported the prosecution story.

19. Lastly, prosecution examined Harwinder Singh, Kanungo as PW10, who has stated that on 7.4.2016 he was posted as Patwari in the area Bamna and on that day IO demanded the record pertaining to FIR regarding the land of Tarlok Singh son of Joga sigh and Jamabandi Ex.PW4/U and girdawari

Ex.PW4/T and Ex.PW10/A.

20. Thereafter, the APP for the State closed the prosecution evidence.

21. I have heard Learned APP for the state and Learned defence counsel and with their valuable assistance carefully gone through the case.

FINDINGS ON POINTS FOR DETERMINATION NO. 1 and 2:

22. In order to bring home the guilt of accused prosecution had examined one injured witness namely PW-2 Kulwinder Singh. PW-2 Kulwinder Singh had testified on oath and his version is already contained in paragraph no.2 of this judgment. He is the complainant in the present case and has deposed as per the case of the prosecution and he has deposed against the accused persons. He has deposed that in the light of the prosecution evidence, as detailed above. after hearing the learned APP for the State and the learned Counsel for the accused and after going through the case file diligently, this Court is of the considered view that the prosecution has miserably failed to prove the charges framed against the accused persons. On 15.04.2015 at about 1.30PM he went to his field and he saw that Sukhdev Singh, Baldev Singh, Karamjit Singh, Gurpreet Singh, Sahib Singh alias Nirmal Singh, Balvir Singh and one more person whose name he does not know were standing in the harvested fields. They were carrying sticks and dangs. Sukhdev Singh was carrying gandasa, Baldev Singh carrying soti, Karamjit Singh was carrying soti, Gurpreet Singh was carrying soti, Sahib Singh was having danda. Sahib Singh who was driving Swaraj Tractor entered into his(complainant) field with intent to take possession of the land and destroyed the straw of harvested crop. When he tried to stop the accused to do so, all accused persons

stated abusing him and intimidated with dire consequences. All of them chased him. Balbir Singh shot a fire from his 12 bore rifle. He stated that accused said they spared him on that day but next time they will kill him. He further stated that the motive behind the occurrence was that they entered into an agreement to sell dated 7.6.1994 with Tarlok Singh regarding purchasing of land from Tarlok Singh and a litigation regarding the said land is pending between them and Sukhdev Singh in the Hon'ble High Court. He further stated that he is in possession of the said land since 1994. However, during cross-examination he has admitted that Sukhdev Singh is not in possession of the land in question. Complainant Kulwinder Singh PW2 also admitted during his cross-examination that accused Sukhdev Singh has filed a civil suit against his father regarding the land in dispute. He further admitted that on 12.2.2021 the said case has been decreed by the court of Sh. S.S. Panesar, ACJSD, Samana. He further admitted that Sukhdev Singh is owner in possession over the suit property and thereby complainant himself admitted the possession of accused over the suit land. Moreover IO ASI Bhagwant Singh PW4 has also admitted during his cross-examination that the possession of Sukhdev Singh was on the occurrence property. He also admitted that the khasra girdawari and jamabandi i.e. PW10/A, Ex.PW4/5 and Ex.PW4/V are in the name of Sukhdev Singh and others. Thereby it is clear that the alleged spot where the occurrence is took place is not the ownership of complainant Kulwinder Singh and this fact falsify the spot of occurrence. Also, if the possession is of accused at the spot of occurrence, then basic ingredients of Section 447 IPC are not made out. Along with this it is also pertinent to draw

attention over Ex.PW10/A & Ex.PW4/S which are Jamabandi and Girdawari of land concerned which again show possession of accused over the land.

23. Now, coming to owner of tractor by which the straw was alleged to be destroyed by accused. No ownership proof of tractor of accused has been produced on record.

24. Now, coming to report of Ballistic expert on record by the prosecution. Result of examination in report says that 12 bore rifle on file not same as furnished, when rifle is only in non working condition, then it creates doubt on the prosecution story. PW2 complainant Kulwinder Singh has admitted during his cross-examination that accused Sukhdev Singh has filed a civil suit against his father regarding the land in dispute. He further admitted that on 12.2.2021 the said case has been decreed by the court of Sh. S.S. Panesar, ACJSD, Samana. He further admitted that Sukhdev Singh is owner in possession over the suit property and thereby complainant himself admitted the possession of accused over the suit land. IO ASI Bhagwan Singh has himself admitted during his cross the possession of Sukhdev Singh accused is on the occurrence property.

25. So, therefore, from the evidence of of these witnesses it comes out that accused Sukhdev Singh is the owner in possession over the dispute land where alleged to be occurred incident. Undoubtedly, judgment and decree sheet dated 15.04.2023 titled as Sukhdev Singh Vs. Kulwinder Singh as Ex.DW1/1 to Ex.DW1/2, Judgment and decree sheet dated 29.08.2002 titled as Jagdish Singh Vs. Tarlok Singh as Ex.DW1/3 to Ex.DW1/4, certified copy of appeal Judgment and decree sheet dated 3.8.2005 as Ex.DW1/5 to Ex.DW1/6, certified copy of

order dated 24.1.2019 passed by the Hon'ble High Court in case titled as Jagdish Vs. Tarlok Singh as Ex.DW1/7, certified copy of order dated 12.02.2001 passed by Sh. S.S. Panesar, ACJSD, Samana as Ex.DW1/8, decree sheet as Ex.DW1/9, khasra girdawari for the year 2002 to 2021 as Ex.DW1/10, Jamabandi for the year 2014-2015 wherein name of accused Sukhdev Singh is mentioned in the ownership column as Ex.DW1/11 are convincingly established on record that accused Suhdev Singh is the owner in possession over the suit land, where occurrence taken place. It creates doubt over the prosecution story.

26. The learned defence counsel had taken up the plea that the evidence of the prosecution is not supported by the testimony of any independent witness. In this context, I am of the considered opinion that no doubt independent corroboration further strengthens the testimony of the official witnesses but at the same time, the testimony of an official witnesses cannot be discarded on the sole ground that it is not supported by independent corroboration. The testimony of the witness has faced the test of cross examination and nothing has been pointed out which would show that his testimony does not inspire any confidence. So the plea regarding the non examination of the independent witness raised by the accused does not seem to be tenable.

27. The prosecution furnishes a cogent explanation for committed the offence by accused persons or prosecution case itself is proved by leading unimpeachable evidence. As already discussed above testimony of the prosecution witnesses is reliable and trustworthy and the evidence of the prosecution is itself impeccable and unimpeachable.

28. Learned counsel for the accused further submits that accused is liable to be acquitted as complainant Kulwinder Singh is not the owner in possession over the suit land where alleged to be occurrence taken place. PW2 Kulwinder Singh himself admitted during his cross-examination that accused Sukhdev Singh is the owner of the suit property at the spot. PW4 ASI Bhagwan Singh submits that in cross-examination this witness being the investigating officer of this case had admitted that there was a dispute between the complainant and accused regarding the land in dispute. Testimonies of witnesses has been already discussed above that testimony of both these witnesses is quite convincing the defence taken by accused persons. Not only this, it is no where the case of the complainant that he is in possession over the land in dispute where accused committed trespass. No suggestion to this effect was given to either of the prosecution witnesses by learned defence counsel. No such plea was taken by either of the accused in their statement U/S 313 Cr.PC. Hence, this submission is of no consequence.

29. No other submission has been made by learned counsel for the accused.

30. Hence, point no.1 and 2 are decided in favour of accused persons and against the prosecution.

CONCLUSION:

31. As a result of the discussion made above, this Court is of the view that the case of the prosecution has not been proved and it has fallen short of the requisite standard of proof required in criminal proceedings. Therefore, the

accused, namely Sukhdev Singh, Gurpreet Singh, Sahib Singh, Balbir Singh, Baldev Singh and Karamjit Singh are hereby acquitted of the charges framed against them. The bail bonds and surety bonds of the accused stand discharged. File be consigned to the record room after due compliance.

Pronounced on: 11.02.2025

Kaka Singh

Steno-III

(Aashia Jindal)

**Judicial Magistrate Ist Class,
UID No.PB0666, Samana**

Note : This judgment contains seventeen pages and each has been dictated & signed by me.

**Pronounced in open court
11.02.2025**

**Aashia Jindal, PCS
Judicial Magistrate Ist Class,
Samana/UID No.PB-0666**