

*In the Court of Shaminder Pal Singh, Sub Divisional Judicial Magistrate,
Jaitu
UID No. PB-0391*

PBFDA10005762023



Presented on : 01-09-2023
Registered on : 01-09-2023
Decided on : 09-12-2024
Duration : 1 years, 3 months, 8 days

Case Filing No.: CHI/575/2023
Instituted on: 01.09.2023
CIS Number : CHI/68/2023
CNR number: PBFDA1-000576-2023
Date of Decision: 09.12.2024

STATE

Versus

1. Manish Singh @ Manish Kumar son of Jaswant Singh resident of Tibbi Sahib Road, Jaitu.
2. Lovely @ Lavi @ Harpreet Singh son of Jaswant Singh resident of Baba Jiwan Singh Nagar, Jaitu.
3. Gurmukh Singh @ Lala son of Manjit Singh resident of Kasam Bhatti, Tehsil Jaitu, District Faridkot.

.....Accused.

**FIR No. 63 of 26.04.2022
Under Section 324/506/34 IPC
Police Station: Jaitu**

Present: Sh. Manoj Bhushan, APP for the State.
Accused Manish Kumar and Lovely on bail with counsel Sh. Dinesh Jindal, Adv.
Accused Gurmukh Singh on bail with counsel Sh. S.S. Sandhu, Adv.

J U D G M E N T

1. The above named accused have been sent up by the Station House Officer, Police Station Jaitu, Faridkot to face trial for offence punishable under Section 324, 506 & 34 of Indian Penal Code, 1860 (hereinafter referred as 'IPC').

2. Brief facts of the case of prosecution are that on 25.04.2022, one medical ruqa regarding admission of Abhishek Kumar due to injuries received to PS Jaitu from Civil Hospital, Jaitu, who was referred to GGS Medical College Faridkot after giving first aid. Rapat has been entered in roznamcha in this regard. ASI Sukhwinder Singh along with police party reached PS City Faridkot and received MLR No.ML/FDK/271/2022 dated 25.04.2022, in which doctor has opined three injuries, which were kept under X-ray. Thereafter, IO along with other police officials reached GGS Medical College and Hospital, Faridkot and met Abhishek Kumar, who got recorded his statement to the effect that he is resident of Street no.2, Sukhchainpura Basti, Jaitu. He is studying in B.A.-2 at Punjabi University College, Jaitu. On 25.04.2022, at about 10.30 a.m., earlier there was fight took place near the gate of University College, Jaitu of Shekhar son of Uma Shankar resident of Tibbi Sahib Road, Jaitu. When he and his friend Shekhar, after attending the class, reached near gate of University College, Jaitu, then Manish Kumar armed with kirpan, Lovely empty handed and Gurmukh Singh son of Lala resident of Kasam Bhatti were standing there. After seeing them, Gurmukh Singh raised lalkara that

Shekhar could not evade. After listening the voice, Shekhar ran towards University College. Then Manish Kumar gave kirpan blow towards him and he raised his hand to save himself but same hit on his little finger. Then Manish Kumar gave second blow of kirpan towards him, which hit on the backside of his head. He fell down. While he was on the ground, Lovely gave fist blows upon him and then Manish Kumar gave third blow of kirpan, which hit on right side of his head. He raised hue and cry and when other students came from University College, Jaitu, then accused fled away from the spot giving threats to kill him. He called his father after intimation. His father took him to Civil Hospital, Jaitu, from where he was referred to GGS Medical College, Faridkot. Motive behind the occurrence was that on 25.04.2022 earlier fight took place between Shekhar and Manish Kumar and due to friend of Shekhar, they caused injuries to him. Legal action be taken against the accused persons. On the basis of said statement, FIR was registered against the accused. Investigation was carried into motion. Site plan was prepared. Medical record of injured was received. Accused were formally arrested. Memos with regard to arrest were prepared. Statement of witnesses were recorded. During investigation, offence under Section 201 IPC was enhanced. After completion of necessary formalities, challan against the present accused was presented in the court.

3. On presentation of challan against the accused, copies of the challan were supplied to the accused free of cost as envisaged under law.

4. From perusal of the documents on record under Section 173 of Code of Criminal Procedure and the statements of witnesses recorded under Section 161 of Code of Criminal Procedure, prima facie case for committing the offence punishable under Section 324, 506, 201 & 34 of IPC was made out against the accused. The accused were charge sheeted to which they pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution has examined PW1 Dr. Rajbir Kaur, PW2 Shivanshu Gupta, Junior Resident, PW3 Abhishek Kumar, complainant, PW4 Krishan Lal and PW5 Shekhar Babu. Since, star witnesses of prosecution turned hostile, examining further witnesses could not have made the case of prosecution any better. As such, learned APP for the State closed prosecution evidence.

6. On closure of prosecution evidence, statement of accused u/s 313 Cr.P.C. was recorded wherein incriminating material appearing against accused was put to them. The accused denied the same and pleaded innocence. The accused did not lead any evidence in defence.

7. I have heard the learned APP for the State and learned Defence counsel for the accused and have gone through the judicial file very carefully.

8. Learned APP for state argued that though the star prosecution witnesses have not supported the case of prosecution while deposing in the Court, but from the statements recorded with the police, it appears that the accused are guilty, hence he prayed for conviction of the accused. On

the other hand, learned defence counsels have argued that complainant and other witnesses of complainant have turned hostile and there is nothing against the accused on record which could connect them with the alleged offences. Hence, they prayed for acquittal of accused.

9. On appreciation of arguments and sifting of evidence, the following points arise for determination:-

1. *Whether prosecution proved beyond shadow of reasonable doubt that on 25.04.2022 at about 10.30 a.m. in the area of University College, Jaitu, PS Jaitu accused Manish Singh @ Manish Kumar armed with kirpan in furtherance of common intention of his co-accused Lovely @ Harpreet Singh and Gurmukh Singh voluntarily caused simple hurt to Abhishek Kumar complainant with kirpan, a sharp edged weapon and thereby accused Manish Singh @ Manish Kumar committed an offence punishable under Section 324 of IPC, whereas, his co-accused Lovely @ Harpreet Singh and Gurmukh Singh committed an offence punishable u/s 324 IPC read with Section 34 IPC?*
2. *Whether prosecution proved beyond shadow of reasonable doubt that on the same date, time and place, all the accused in furtherance of common intention of each other threatened the complainant Abhishek Kumar with dire consequences and thereby committed an offence punishable under Section*

506 of IPC read with section 34 IPC?

3. Whether prosecution proved beyond shadow of reasonable doubt that on the same date, time and place, the accused Manish Singh @ Manish Kumar in furtherance of common intention of his co-accused caused disappearance of the evidence i.e. kirpan with the intention to screen himself from punishment and thereby accused Manish Kumar committed an offence punishable under Section 201 of IPC, whereas, his co-accused committed an offence punishable u/s 201 of IPC read with Section 34 of IPC?

10. Considered. PW1 Dr. Rajbir Kaur, Medical Officer deposed that on 25.04.2022, she was posted as Emergency Medical Officer at CHC, Jaitu. On that day, patient Abhishek came at her hospital and he was referred to Guru Gobind Singh Medical College and Hospital, Faridkot on the urgent basis after initial treatment. She has seen the ruqa. She sent ruqa Ex. PW1/1 to the police. IO recorded her statement.

11. PW2 Shivanshu Gupta, Junior Resident deposed that on 27.04.2022, he was posted as Junior Resident, Department of Radiodiagnosis. In the present case, the said patient Abhishek referred to their department for conducting X-ray. The X-ray was conducted under his supervision. After receiving X-ray film Ex. PW2/1, he gave his report Ex. PW2/2. As per report he found:- X-ray of skull with facial bones- No fracture seen and X-ray of right hand- fracture of middle phalanx of little

finger is seen.

12. PW3 Abhishek Kumar (complainant) did not support the prosecution version. In his examination-in-chief, he stated that he is labourer. On 25.04.2022, at about 10.30 a.m., his friend Shekhar son of Uma Shankar having a fight with unknown persons. He alongwith his friend Shekhar were standing near the gate of College, where, unknown persons whose faces were muffled came at the spot and caused injuries upon him. He further deposed that he did not know accused present in the Court and they never caused injuries upon him. He never recorded his statement before the police. On the request of learned APP for the State, the witness was declared hostile. The witness was allowed to be cross-examined by learned APP for the State, but even after extensive cross examination nothing favourable to prosecution could be adduced from his testimony.

13. PW4 Krishan Lal did not support the prosecution version. In his examination-in-chief, he stated that he is labourer. He did not know anything about the facts of the case. He is not eye witness. He never recorded his statement before the police. On the request of learned APP for the State, the witness was declared hostile. The witness was allowed to be cross-examined by learned APP for the State, but even after extensive cross examination nothing favourable to prosecution could be adduced from his testimony.

14. PW5 Shekhar Babu did not support the prosecution version.

In his examination-in-chief, he stated that he is working in private company. On 25.04.2022 at about 10.30 a.m. he was having a fight with unknown persons. He alongwith his friend Abhishek Kumar were standing near the gate of College, where, unknown persons came at the spot and caused injuries upon Abhishek Kumar. He did not know accused present in the Court and they never caused any injury upon his friend Abhishek Kumar. He never recorded his statement before the police. On the request of learned APP for the State, the witness was declared hostile. The witness was allowed to be cross-examined by learned APP for the State, but even after extensive cross examination nothing favourable to prosecution could be adduced from his testimony.

15. Since, the star witnesses of the prosecution, on whose statement the investigation was set into motion, turned hostile, there is nothing on record to link the present accused with the charges levelled against them. There is no specific allegation against the accused proved on record. Though, the prosecution has also examined above said other formal witnesses, but their testimonies are not sufficient enough to lead to the conclusion that the prosecution has proved its case against the accused beyond all shadows of reasonable doubt. The fact remains that there is nothing material on record to bring home guilt of accused present in Court. The complainant and other private witness have specifically deposed that the accused did not cause any injury upon the complainant. Therefore, the allegations levelled against the accused are not established beyond any

shadow of doubt. It is not proved that the accused caused the injuries in question. I am of the considered opinion that the prosecution has failed to prove the guilt of the accused beyond reasonable doubt. As such, points for determination is decided against the prosecution and in favour of the accused.

16. Accordingly, on the basis of the findings given above, by extending the benefit of doubt, the accused Manish Singh @ Manish Kumar, Lovely @ Lavi @ Harpreet Singh and Gurmukh Singh are acquitted of the charges framed against them. Bail bonds and surety bonds of accused are kept intact for another six months in compliance with Section 437-A of Cr.P.C. in order to ensure the presence of accused in appeal or revisional Court as the case may be, in case any appeal or revision is preferred by the State. It is clarified here that on the expiry of six months from the date of this judgment, those bonds shall stand automatically discharged. Case property, if any, be disposed of/dealt as per rules after lapse of period of appeal or the outcome of the same, as the case may be. File be consigned to the record room.

Pronounced in open court:-

Date of order: 09.12.2024

Suraj Bansal*

(Shaminder Pal Singh)

Sub Divisional Judicial Magistrate,
Jaitu, UID No.PB0391

(Dictated directly on computer)