

**IN THE COURT OF MUNISH GARG, PCS,
ADDITIONAL CHIEF JUDICIAL MAGISTRATE, BARNALA**
(UNIQUE IDENTIFICATION NO. PB 0310)

CNR No.PBBR03-001543-2020

CIS No. CHI/133-2020

Date of institution: 15.05.2020

Date of decision: **07.07.2025**

State Versus **Bandhantod Singh** son of Gurjant Singh,
resident of Ward no.05, Handiaya, District
Barnala.

..... Accused.

FIR No.26 dated: 10.03.2019

Under Sections 448, 427, 506, 511 of IPC

Police Station: Barnala.

Present: Ms. Honey Garg, APP for the State.
 Accused Bandhantod Singh on bail with counsel, Sh.
 Sukhwinder Singh Bhullar, Advocate.

JUDGMENT:-

1. Accused described above, has been sent up by the officer in-charge of police station Barnala, to face trial for offences punishable under Sections 448, 427, 506, 511 of the Indian Penal Code, 1860 (here-in-after referred as **IPC**).

2. In brief, the prosecution version is that on 09.10.2018, one application was moved by Satish Kumar son of Late. Harbans Lal, resident of Handiaya to SSP, Barnala. The contents of the application were regarding damaging the wall of the shop and for making threats and for hurling abuses by Bandhantod Singh. It has been averred in the application that complainant Satish Kumar is permanent resident of

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Village Handiaya, District Barnala. The complainant owned one shop at Village Handiaya near ATM State Bank of India. Near to the shop of complainant, there is shop of Bandhantod Singh and he wanted to take forcible possession of the shop of the complainant. Bandhantod Singh has also filed one Civil case against him in the Civil Courts at Barnala regarding the shop in question and the Will produced by Bandhantod Singh has been denied by the Court. Then Bandhantod Singh filed a case in the higher Court and there also the case was dismissed. Bandhantod Singh has prepared forged Will and for that reason Court has dismissed his case. On the intervening night of 01.06.2018/02.06.2018, Bandhantod Singh tried to take forcible possession of the shop of the complainant. There Bandhantod Singh, his wife Balwinder Kaur and his mother Manjit Kaur collectively caused damaged to the shop and tried to take possession thereof. He and his family is under threat of being killed by Bandhantod Singh and his family members. In this regard an application bearing no. 1740/P dated 04.06.2018 was moved by the complainant and inquiry was conducted by Police Post, Handiaya but the complainant was not satisfied with such inquiry. Bandhantod Singh is trying to take forcible possession of personal property of the complainant. Action be taken against Bandhantod Singh.

3. After conducting preliminary inquiry, First Information Report under Sections 448, 427, 506, 511 of IPC was registered against the accused and investigation was set into motion. During investigation,

rough site plan was prepared by the Investigating Officer. Statements of witnesses under Section 161 of Cr.PC were recorded. Documents regarding property were taken into police possession. After completion of necessary formalities of the investigation, challan against the accused Bandhantod Singh was prepared and presented in the Court.

4. On appearance of other accused in the Court, copies of challan and other necessary documents as relied upon by the prosecution were supplied to the accused free of costs as required under section 207 of Cr.PC.

5. After hearing both the sides, i.e the State Prosecutor as well as defence counsel and finding a prima facie case against the accused, charges under Sections 447, 511, 506, 427 of the IPC, were framed against accused Bandhantod Singh. The contents of charges were read over and explained to accused in vernacular, to which said accused pleaded not guilty and claimed trial.

6. In order to bring home the guilt of the accused, prosecution has examined **Satish Kumar complainant** as **PW.1** who deposed on oath verbatim to the contents of the application moved before SSP, Barnala which need not be reiterated here in order to avoid repetition of facts. He identified his signatures on the said application moved to SSP, Barnala Ex.PW1/A. He also produced photocopy of photos of his shop, which was destroyed by accused Mark-A and Mark-B. He also proved his statement recorded during inquiry by Higher Officials of the police Ex.PW1/B,

certified copy of Civil case titled as “Bandhantod Singh Vs. Satish Kumar” which was dismissed on 02.07.2019 Ex.PW1/C, certified copy of order in appeal filed against the said order Ex.PW1/D vide which civil appeal was dismissed as withdrawn. He further proved on record the photocopies of receipts Ex.P1 to Ex.P16. He also identified the accused in the court.

7. Prosecution further examined **PW.2 Retired Sub-Inspector Harbans Singh**, who deposed on oath that in the year 2019, he was posted at PP Handiaya as Investigating Officer and a complaint Ex.PW1/A against accused Bandantod Singh was moved by complainant Satish Kumar son of Late Harbans Lal. After inquiry FIR Ex.PW2/A was got registered against the accused Bandantod Singh by Sukhwinder Singh ASI whose signatures he identified on FIR. He further stated that the inquiry report Ex.PW2/B was got signed by then DSP Rajesh Kumar Chibbar, which was approved by then SP investigation vide his report Ex.PW2/C and then FIR got registered against the accused. During the investigation he prepared rough site plan of the place of occurrence Ex.PW2/D and arrested the accused Bandantod Singh vide arrest memo Ex.PW2/E and conducted personal search vide memo Ex.PW2/F. Information regarding arrest of accused was given to Liyakat Ali vide memo Ex.PW2/G. He recorded the statement of witnesses under Section 161 Cr.P.C and after the completion of investigation challan against the accused got prepared and presented before the Court by Inspector Baljit Singh, then SHO. He

identified the accused present in the Court.

8. Prosecution further examined **Raj Khan as PW.3**, who deposed on oath that he is doing the work of selling vegetables and has been residing in Handiaya since birth. Earlier at Handiaya near State Bank of India Bank there was a shop of liquor of Harbans Lal where his father served for 40 years and now said shop is being looked after by Satish Kumar son of Harbans Lal. First floor on the shop has been constructed and on the back side of the first floor, there is a temple and Bandhantod Singh is looking after the temple. Some days ago, Bandhantod Singh has damaged the wall of the shop of Satish Kumar and had tried to take forcible possession. Satish Kumar came at the spot. Accused and his family members had scuffled with Satish Kumar and he separated them. Regarding this, his statement was recorded during inquiry which is Ex.PW3/A on which he identified his signatures at Point-A. He also identified the accused present in the Court.

9. Prosecution further examined **PW.4 Budh Khan**, who deposed on oath that he is a labourer and he is living at Handiaya since his birth. At Handiaya, opposite to the Branch of SBI Bank, there is a shop of Harbans Lal and he was watching this shop since childhood in which they used to sell the liquor and after Harbans Lal, his son Satish Kumar used to supervise the said shop and there is a portion on this shop and on the back side of the same there is a property of the temple and Bandhantod Singh used to take care of the said temple, who had some months back in 2018

damaged the wall of shop of Satish Kumar and tried to take forcible possession of the said shop and when Satish Kumar tried to resist the same then he started fighting with him. His statement was recorded by the police.

10. Prosecution further examined **Surinder Paul, Clerk, Office of Nagar Panchayat, Handiaya** as **PW.5** who deposed on oath that he has brought the original record pertaining to receipt forms G8, as per which book No.77, receipt No.64, Satish Kumar son of Harbans Lal, resident of Handiaya had paid the tax in the year 2013-2014, 2014-2015 of amount of Rs.3584/- and copy of the same is Ex.P1/PW5 and book No.41 vide which Satish Kumar had paid tax of year 1998 of Rs.172/- Mark Z, of year 2010-2011 of Rs.486/- Mark Z2, of year 2012-2013 of Rs.540/- Mark Z3, of year 2008-2009 Mark Z4, of year 2009-2010 Mark Z5, of year 2003-2004, 2004-2005, 2007-2008 Mark Z6, of year 2002-2003 Mark Z7, the bill of Harbans Lal son of Baalu Ram of Rs.75/- Mark Z8, the application dated 21.11.2018 is Ex.P2/PW5. The receipt of book No.90 and receipt No.45 was brought in original by him and the copy of the same is Ex.P3/PW5. The receipt of book No.98 and receipt No.32 were brought in original by him and the copy of the same Ex.P4/PW5. The receipt of book No.102 and receipt No.22 was brought in original by him and the copy of the same Ex.P5/PW5. He has also brought the original assessment form of Satish Kumar and the copy of the same Ex.P6/PW5. He has also brought the computerized record of property tax

of 2018-2019 of Satish Kumar and the copy of the same Ex.P7/PW5.

11. Prosecution further examined **PW.6 Lyakat Ali** who deposed on oath that he has no knowledge about the facts of the present case. He never recorded his statement before the police against the accused. This witness was declared hostile on request of APP for the State and was further permitted to be cross-examined by the APP for the State so as to put question to him in the leading form and to confront the witness with his earlier statement made to the police, in which the name of the accused and mode of incident are narrated, but this witness denied having made any such statement to the police. He further deposed that police obtained his signatures on blank papers. Nothing fruitful to the case of prosecution could be extracted out of the cross-examination of this witness.

12. Prosecution further examined **Retired Superintendent of Police (D) Sukhdev Singh Virk as PW.7** who deposed on oath that on 10.10.2018, he was posted as SP(D) at Barnala and on that day, one application was received by the office of SSP Barnala, vide no.3581/VP, having been moved by Satish Kumar and the same was marked to DSP Barnala to verify the facts and ensure justice on merits as per law and report, vide endorsement Ex.P1/PW7, by Sh.Sharanjit the then SP Head quarter Barnala with additional charge of SSP Barnala, on which he identified his signatures at point A and on the basis of the same report was prepared by Sh.Rajesh Kumar, the then DSP Barnala, on which he identified his signatures and on the same vide endorsement Ex.P2/PW7,

the same was marked to Deputy DA legal for opinion, by Sh.Harjit Singh, the then SSP Barnala, on which he identified his signatures. On the basis of the same, legal opinion Ex.P3/PW7 was given by Sh.Aseem Kumar Goyal, the then Deputy DA Legal Barnala and the same was further marked to SP(D) for comments and DSP Barnala's report was clear about offences committed by respondents, by Sh. Harjit Singh the then SSP Barnala, vide endorsement Ex.P4/PW7, on which he identified his signatures. Then report no.5 PRSP(i) dated 04.02.2019 was prepared by him, on which he identified his signatures and on the same vide endorsement Ex.P5/PW7 SHO Sadar Barnala, was directed for necessary action as per report by Sh. Harjit Singh the then SSP Barnala and on the basis of the same present FIR was registered. On 20.03.2019, one application Ex.P6/PW7 was received by the office of SSP Barnala having being moved by accused Bhadan Tod and the same was marked to DSP Barnala to verify during investigation vide endorsement Ex.P7/PW7 by Sh. Harjit Singh the then SSP Barnala and he identified his signatures on the same. On the basis of the same, he prepared report no.47PR/SP(i) dated 08.06.2019 as Ex.P8/PW7 on which he identified his signatures and on the same vide endorsement Ex. P9/PW7, SHO Sadar Barnala was directed to complete investigation by Sh. Harjit Singh the then SSP Barnala.

13. Prosecution further examined **PW.8 Sarbdeep Singh, Librarian cum Record Keeper, District Court, Barnala** who deposed on

oath that he has brought the summoned record pertaining to case i.e. CIS No. CA/44/2015 MCA No.20 of 08.09.2015 and CR no. 1189 of 2015. He has seen the copy of order dated 05.08.2015 passed by the court of Sh. Varundeeep Chopra, the then CJ(JD), Barnala and Judgment dated 21.08.2017 passed by the court of Sh.Baljinder Singh Sran, the then Additional District Judge, Barnala and the same are Ex.P1/PW8 (containing five pages) and Ex.P2/PW8 (containing seven pages), on which he identified their signatures, having received documents containing orders/judgments signed by them in his official capacity and the same are true as per the original brought by him.

14. Prosecution further examined **PW.9 Sajjan Singh**, who deposed on oath that he has been living at Handiaya since his birth. At Handiaya opposite to the branch of SBI Bank, there is a shop of Harbans Lal which is situated near his house and he has been watching the said shop since childhood, in which they used to sell liquor and after the death of Harbans Lal his son Satish kumar, used to supervise the said shop is 20 foot wide and 21 foot long and a building has been build on the first floor of the said shop and on the back of the said shop and there is property of temple and Bhandantod used to take care of the said temple and about seven years ago Bhandan Tod damage the back wall of the said shop of Satish Kumar and tried to illegally take possession of the same and when Satish Kumar tried to resist him, then Bhandantod started fighting with him and criminally intimidated him. His statement was recorded. He

identified accused Bhadantod present in the court today.

15. Despite availing numerous opportunities, prosecution has failed to conclude the evidence and thereafter the evidence of the prosecution was closed vide order dated 30.04.2025.

16. Statement of accused Bandhantod Singh under Section 313 of Cr.P.C. was recorded, wherein entire incriminating evidence appearing against the accused in the prosecution evidence were put to said accused to which he pleaded innocence and false implication. Accused opted to lead defence evidence.

17. In defence, accused has not examined any witness and finally defence evidence was closed vide order dated 07.07.2025.

18. **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.**

19. Learned APP for the State argued with vehemence that the case of the prosecution has been fully proved from the statement of complainant PW.1 Satish Kumar, PW.3 Raj Khan, PW.4 Budh Khan and PW.9 Sajjan Singh, who have given the true and detailed account of the occurrence leaving no doubt that the accused has committed the offences punishable under sections 447, 427, 506 read with 511 of IPC. Learned APP for the State has further argued that the prosecution by way of producing the oral as well documentary evidence has been able to bring home the guilt of the accused and as such accused be held guilty for the

charges framed against him. She also argued that no defence has been produced by the accused which means to show that accused has nothing to say against the case of the prosecution. In the end, she prayed that accused be convicted and sentenced according to law.

20. On the other hand, learned defence counsel has strenuously opposed the contentions raised by APP for the State, submitting that the prosecution has also failed to prove on record the guilt of accused beyond the shadow of reasonable doubt. Learned defence counsel also argued that there is not an iota of evidence to prove the alleged occurrence and accused is entitled to be acquitted on this ground only. He also contended that present case has been planted upon the accused as a counter blast to the Civil Suit filed by the accused against the complainant relating to the shop in question. Denying all other allegations against the accused and pleading the case of the prosecution to be a bundle of lies, learned defence counsel, has prayed for acquittal of the accused from the charges framed against him.

21. **I have considered the contradictory version put forth by the learned APP for the state and learned defence counsel and have deliberated over the arguments advanced in the light of facts, evidence, documents and circumstances.**

22. The accused in the present case has been charged for committing the offences punishable under section 447, 427, 506 read with 511 of IPC. Before proceeding further it will be essential to go through

the provisions of section 447 of IPC, which is reproduced as below:

447 – Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

23. Criminal Trespass has been defined under section 441 of IPC, which is reproduced as under:

441 – whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult or annoy any person in possession of such property, or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult or annoy any such person, or with intent to commit an offence, is said to commit criminal trespass.

24. In order to prove these offences the prosecution was required to prove the main ingredients. The main ingredients for satisfying the commission of offence of criminal trespass are as under:

1.) Entry into or upon property in the possession of another.

2.) If such entry is lawful, then unlawfully remained upon such property,

3.) such entry or unlawful remaining must be with intent-

(a) to commit an offence; or

(b) to intimidate, insult, or annoy any person in possession of the property.

25. A cursory look to the main ingredients, it has come into picture that offence of criminal trespass purely depends upon the intention of offender and not upon nature of the act. In the present case, the complainant has alleged that the accused in his absence, has tried to damage the wall of the shop belonging to the complainant on the intervening night of 01.06.2018/02.06.2018 and therefore he has committed the offence punishable under section 447 read with 511 of IPC. In order to prove the same allegations complainant Satish Kumar himself stepped into witness box as PW.1, wherein he reiterated the version put forth by him in the application moved to police Ex.PW1/A. During his cross-examination, PW.1 Satish Kumar has admitted that he has no document of ownership of the shop in question. He also stated that neither he has any sale deed nor any jamabandi in his favour to prove his ownership over the shop in dispute. Here it is relevant to mention that at the foremost the complainant was required to prove on record his ownership over the shop in dispute upon which he alleged that the accused has tried to take forcible possession. Moreover, no document to prove the possession of the complainant over the shop in question has

been placed on record by the prosecution. Even if for the sake of arguments, it is taken to be true that the shop in dispute is in possession of complainant, then also the prosecution has failed in producing any sort of evidence to prove the alleged occurrence on the intervening night of 01.06.2018/02.06.2018. No photograph of the shop in question regarding damage to the wall of the shop has been produced by the prosecution. The entire prosecution case is based upon oral testimonies of PW.1 Satish Kumar, PW.3 Raj Khan, PW.4 Budh Khan and PW.9 Sajjan Singh. Besides the oral testimonies, there is no documentary evidence on the judicial file to prove the commission of criminal trespass by the accused in the shop in question. PW.3 Raj Khan in his examination in chief has specifically stated that accused has damaged the wall of shop owned by Satish Kumar and has tried to take forcible possession of the same. During his cross-examination, he has admitted that he was working under father of complainant Satish Kumar. He also admitted that the shop in question is lying vacant and the occurrence was seen by 2 to 4 other persons whose name he does not know. The entire testimony of PW.3 Raj Khan does not inspire confidence of the Court as said witness is an interested witness. Similarly, PW.4 Budh Khan has stated during his cross-examination that shop in question is lying vacant and is in dilapidated condition. He further stated that he has never mentioned about the occurrence and about the damaging of the wall in his examination in chief. Similarly, PW.9 Sajjan Singh during his cross-examination has

admitted that he is not the eye witness to the occurrence and the accused has not tried to take possession of the disputed shop in his presence. It is apposite to mention that PW.6 Lyakat Ali has not supported the case of the prosecution and was declared hostile on the request of the APP for the State. During his cross-examination by APP for the State, nothing fruitful to the case of the prosecution could be elicited out. From the entire evidence of the prosecution, this court has found that there is inconsistent evidence that too oral in nature. In the present case, the prosecution could have brought the documentary evidence to prove the occurrence in hand and damage to the wall of the disputed shop, however the prosecution has failed to produce the same and the benefit of the same must go to the accused. There is not an iota of evidence on the judicial file to prove that the accused has committed the offence punishable under Section 447 of IPC.

26. Similarly, there is no evidence on judicial file regarding damage to the disputed shop. In order to prove the allegations under Section 427 of IPC, the prosecution was required to prove the damage to the wall of the disputed shop but the prosecution has failed to do so.

27. So far as the allegations against the accused with regard to commission of offence under section 506 of IPC is concerned, the same is not made out for the reasons that no evidence to this effect has been produced by the prosecution. There remains only a suspicion with regard to alleged occurrence. It is undisputed that in criminal jurisprudence

suspicion howsoever grave cannot take place of a proof. In **Kesar Singh Vs. State of Punjab, AIR 1974 Supreme Court 985,** it has been held Hon'ble Supreme Court of India that **Suspicion however strong cannot take the place of proof. No judicial decision can rest on mere suspicion. The prosecution story may be true; but between 'may be true' and 'must be true' there is inevitably a long distance to travel and the whole of this distance must be covered by legal reliable and unimpeachable evidence.**

28. From the aforesaid judgment it becomes clear that the suspicion is not substitute of proof and the prosecution has to travel a long distance between 'may be true' and 'must be true'. In the present case evidently the prosecution has failed to prove on record the alleged occurrence by way of reliable and unimpeachable evidence and benefit of the same must be given to the accused.

29. In the prosecution evidence, there is no completion of chain of links and prosecution has miserably failed to prove on record the guilt of the accused beyond shadow of reasonable doubt. 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.**

30. In view of the given circumstances, this Court is of the considered

view that the prosecution has failed to prove its case against accused Bandhantod Singh beyond shadow of reasonable doubt. Consequently, accused Bandhantod Singh is acquitted from the charges framed against him. Bail bonds and surety bonds of said accused are discharged. Case property be disposed of as per rules. Exhibited 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, Barnala, after arranging, numbering and indexing the same.

Note: This judgment has been directly dictated on computer and comprised of total 16 pages and all the pages have been checked and signed by me.

Announced.

Dated:- 07.07.2025

Vikas Khera, JW-I

(Munish Garg) PCS

**Addl. Chief Judicial Magistrate,
Barnala (UID No. PB 0310)**

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