

**In the Court of Sh. Amarjeet Singh, PCS,
Judicial Magistrate 1st Class, Samana.**

(Unique Identification No.PB0480)

CNR No.PBPTC1-00173-2017

Case Information No. CHI/124/2017

Date of Decision: 05.01.2019

State	Versus	1. Lakhwinder Singh alias Sukhwinder Singh alias Binder Singh son of Karnail Singh 2. Melo wife of Karnail Singh and 3. Sukhpal Kaur alias Jagpal Kaur wife Lakhwinder Singh Sukhwinder Singh alias Binder Singh all residents of village Dhuhar. Patran. District Patiala.
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-----Accused.

Case FIR No. 12 Dated 20.01.2017,

Under Sections 323, 341, 34 of IPC,

Police Station: Patran.

Present:- Ld. APP for the State.

Accused perosns on bail, with counsel Sh. S.K.Goyal, Adv.

J U D G M E N T

The accused named above has been sent up by SHO, P.S.
Patran to stand trial for having committed offence punishable under
Sections 323, 341, 34 of Indian Penal Code.

2. The factual matrix of the case as unfolded by the prosecution in police report under Section 173 Cr.P.C. is that the complainant- Rani Kaur wife of Nikka Singh resident of Dhuhar, PS Patran, District Patiala , stated that she is the resident of above stated address and is a house hold lady. At about 11.30 am after finishing household work, she (complainant) was wahing clothes in front if her(complainant) house. The accused restrained her (complainant) while washing clothes. Sukhwinder alias Binder snatched the wooden stick (Thaapi) from her(complainant) and hit the same on her (complainant) forehead. Melo and Jagpla Kaur gave slappings and fists to her(complainant). They told her(complainant) that this is lesson to be in different party. She (complainant) raised hue and cry and the accused ran away from the spot. Sukhwinder Sing alias Binder is the son of her(complainant) brother-in-law(Jeth). Co-villager Harwinderjit Singh got her(complainant) admitted CH Patran. On the basis of the statement of the complainant- Rani Kaur, a case was registered under 341, 323 and 34 of IPC.

3. During the course of ensuing investigation, police recorded statements of the witnesses under Section 161 Cr.P.C. Accused persons were arrested. Site plan was prepared. The completion of the investigation was followed by submission of the police report under Section 173 Cr.P.C. in the Court.

4. On presentation of the challan and appearance of accused, necessary documents were supplied to them as envisaged under Section

207 of Cr.P.C.

5. Finding a prima-facie case, a charge for the offence punishable under Sections 323, 341 read with 34 of IPC against the above said accused persons were framed. The charge was read over and explained to the accused persons in their own language to which accused pleaded not guilty and claimed trial.

6. In order to prove its case, prosecution has examined PW2 Rani Kaur- Complainant and PW1 Harinderjit Singh. The evidence of the prosecution stand closed by the order of the court as complainant and eye witness did not recognize the accused persons present in the court.

7. The Statements under Section 313 of Code of Criminal Procedure of the accused persons were recorded whereby all the incriminating evidence on record was put to him to which they pleaded their innocence. They have been falsely implicated in the present case and they have not committed any offence. However, accused opted not to lead evidence in their defence.

8. I have heard submissions of the learned APP for the State and the learned Defence Counsel, and have examined the material available on record with due care and circumspection. On this, I come to the conclusion that the prosecution has failed to prove the guilt of the accused in the present case. The prosecution has utterly failed to establish the identity of the accused on record.

9. As already stated, the present case against the accused

persons was registered on the strength of a statement made by Rani Kaur. However, complainant-Rani Kuar while appearing as PW2 in her cross neither identified any accused persons present in the court nor depose qua her alleged injury. She further stated that no occurrence was taken palce. Similarly, PW1 Harinderjit Singh in his cross examination stated that he was not witness of the incident in question. He never identified the accused persons

10. No doubt, statement of witness should not be thrown over board and so much part of the statement of a witness which is consistent with the prosecution story can still be taken help to convict the accused persons and the evidence of a witness would not be totally rejected if submitted in favour of the prosecution or accused but it can be subject to close scrutiny and that portion of the evidence, which is consistent with the case of the prosecution or defence may be accepted. I have gone through the statements of PW2 Rani Kaur- Complainant and PW2 Harjinderjit Singh from that angle also, however, I find the same totally worthless. Complainant-Rani Kuar while appearing as PW2 in her cross neither identified any accused persons present in the court nor depose qua her alleged injury. She further stated that no occurrence was taken palce. Similarly, PW1 Harinderjit Singh in his respective cross examinations stated that he was not witness of the incident in question. He never identified the accused persons

11. Needless to say that the prosecution is to prove case against

the accused beyond all shadows of reasonable doubts. In **State of Haryana Vs. Shamsher Singh, reported in 2006 (3) RCR (Criminal) 346 (P&H) (DB)**, the Hon'ble Punjab & Haryana High Court held that in a criminal trial, prosecution is cast with very serious duty to bring on record quality evidence in order to substantiate its allegation against an accused person. It cannot seek conviction of any person without bringing substantial evidence on record as it becomes extremely difficult for the Court to pronounce a person guilty in the absence of fool-proof evidence nailing guilt by the accused person. Specially in present case, the complainant and the eye witness have not supported the case of prosecution. With this, the case of the prosecution fell down on the point of identity of the accused as the same has not been proved by the prosecution beyond reasonable doubt. Hence, the case of the prosecution fell down on its own. There remains nothing against the present accused.

12. In view of the discussion made here-in-above, I acquit the accused Lakhwinder Singh alias Sukhwinder Singh alias Binder Singh son of Karnail Singh, Melo wife of Karnail Singh and Sukhpal Kaur alias Jagpal Kaur wife Lakhwinder Singh Sukhwinder Singh alias Binder Singh of the charges framed against him. Their bail bonds and surety bonds keep intact for another six months in compliance of Section 437-A of Cr.P.C to ensure the presence of the accused persons in filing of appeal / revision, as the case may be, in case any appeal or revision is preferred by the State.

13. Case property, if any, be disposed of, under rules after

awaiting the result of appeal / revision, as the case may be, if any. File be
consigned to the Judicial Record Room, Samana, after due compliance.

Pronounced In Open Court:
05th day of January, 2019
(Naveen Kumar/STG Gr-II)
(Directly Dictated)

(Amarjeet Singh) ***PB0480***
Judicial Magistrate 1st Class,
Samana.