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State Vs. Nirvail Singh @ Naili

**In The Court of Deepal Singh Chhina PCS,
Judicial Magistrate 1st Class, Zira
(UID PB0468).**



CIS No. CHI/132/2024
CNR No.PBFZA10008342024
Date of Decision: 08.08.2025.

State	Versus	1. Nirvail Singh @ Naili aged about 28 years son of Jalandhar Singh r/o Chabba, PS Sadar Zira. 2. Daljit Singh @ Bhau @ Sonu (Proclaimed Offendor)
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..... Accused

FIR No. 66 Dated 02.06.2022,
under Section 341,323,506,34 IPC and
25,27,54,59 of Arms Act.
Police Station Sadar Zira.

Present: Sh.Karan Dhingra, APP for the State.
Accused Nirvail Singh @ Naili on bail with counsel
Sh.H.S.Dhillon Adv.

JUDGMENT:

1. Above named accused has been sent by the Officer Incharge of PS: Makhu, to face trial in FIR no. 66 Dated 02.06.2022, under Section 341,323,506,34 IPC and 25,27,54,59 of Arms Act.

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2. Brief facts of the prosecution case are that the prosecution machinery was set into motion on the statement of Gurpreet Singh son of Rashpal Singh r/o Chabba, PS Sadar Zira who stated to the police that he is resident of above mentioned address and does agricultural work. Yesterday, he and his uncle's son Sukhmanjit Singh were going towards Talwandi Bhai for household work. At about 11:00 AM when they were little behind from village Sekhwan, a white Scorpio car came from behind from Zira side. The driver of the Scorpio car stopped the vehicle in front of their motorcycle. Three men got out of it, one of whom was named Nirvair Singh @ Nelli son of Jalandhar Singh resident of Chabba. He had a pistol in his hand. He can recognize the other two when they came in front of him. Both of them had iron rods in their hands. Nirvair Singh grabbed him from his throat and threatened him with pistol. They started dragging him on the road. Then the unknown men started beating him with iron rods, which hit on his right leg below the knee inside the rib cage. They assaulted him with Iron Rods, which hit on his left shoulder, left

foot, right thigh and on the backside of left shoulder. Passers-by stopped their vehicles on the road, so the culprits fled away from the spot alongwith their weapons while threatening that he has been spared this time but second time he will not be spared. They did not say anything to his uncle's son, so his uncle's son informed his family members. After some time his family members came at the spot and got him admitted at Civil Hospital, Zira from where he got discharged after receiving treatment. The motive behind the occurrence was that Nirvair Singh is indulged in the business of stealing sand at night on his tractor and about 1 1/2 month ago, his tractor-trolley was caught with sand, so they suspected that the complainant party was involved in the said act. On the basis of the statement of complainant FIR was registered. Investigating Officer alongwith other police officials inspected the spot, prepared rough site plan and recorded statements of witnesses. On 08.07.2022 accused Nirvair Singh who was lodged in FIR No.38 dated 13.04.2022, PS Sadar Zira was arrested in the present case. His ground of arrest memo and personal search memo was prepared.

During interrogation accused Nirvail Singh made disclosure statement that in the crime, Jagan Nath son of Labha Singh and Jodha Singh son of unknown were involved alongwith him and Jodha Singh was having licenced Gun and Jagan Nath was having Iron Road at that time and he was having Scorpio vehicle bearing no. PB 11 AH 0020 at that time. Accordingly accused Jagan Nath and Jodha Singh were nominated in the present case. Vehicle of accused was recovered in FIR No.82/2022. On 30.03.2023 accused Daljit Singh @ Sonu @ Jodha was joined in the investigation as per the orders of the court. After completion of investigation and necessary formalities challan was presented in the Court against accused Nirvail Singh and Daljit Singh @ Bhau @ Sonu for trial. It was stated that after the arrest of accused Jagan Nath supplementary challan would be presented against him.

3. Upon presentation of challan and appearance of accused in the Court, copies of challan alongwith documents

attached thereto were supplied to the accused free of costs as envisaged under law.

4. Scrutiny of challan and documents attached thereto revealed a *prima-facie* case having been made out against accused punishable under Section 341,323,506,34 IPC. Accordingly, accused Nirvail Singh @ Naili was charge-sheeted under the said provisions of law. Contents of charge so framed were read over and explained to accused Nirvail Singh @ Naili in simple language to which he pleaded not guilty and claimed trial. Resultantly, prosecution witnesses were ordered to be summoned.

5. In order to prove its case, the prosecution has examined Gurpreet Singh as PW.1, Sukhmanjit Singh as PW.2, Rachpal Singh as PW.3, ASI Kulwant Singh as PW.4. Thereafter, evidence of the prosecution was closed by order.

6. After closure of prosecution evidence, accused was examined under Section 313 Cr.P.C so as to apprise him of all incriminating circumstances appearing against him in prosecution

evidence. Accused denied all such allegations and claimed himself to be innocent. He opted not to lead defence evidence.

7. I have heard learned APP for State and learned Defence Counsel and have gone through the file carefully and minutely. The following points of determination in the present case are as follows :-

1. Whether on 01.06.2022 at about 11:00 AM in the area of PS Sadar Zira, the above named accused Nirvail Singh @ Naili alongwith your co-accused in furtherance of common intention of each other, wrongfully restrained the complainant Gurpreet Singh and thereby, committed an offence punishable under Section 341 IPC read with Section 34 Indian Penal Code?.
2. Whether on the same date, time and place, the above named accused Nirvail Singh @ Naili alongwith your co-accused in furtherance of common intention of each other, inflicted simple injuries on the person of complainant Gurpreet Singh and thereby, committed an offence punishable under Section 323 IPC read with Section 34 Indian Penal Code ?
3. *Whether on the same date, time and place, the above*

named accused Nirvail Singh @ Naili alongwith your co-accused in furtherance of common intention of each other, threatened complainant Gurpreet Singh with dire consequences and thereby, committed an offence punishable under Section 506 IPC read with Section 34 Indian Penal Code?

4. *Whether the prosecution has proved the guilt of the accused beyond any reasonable doubt?*

8. All the points of determination being interwoven are taken up together so as to avoid repetition and discussion of evidence. The learned APP for the State has argued that the case of prosecution stands proved as the official witness has deposed against the accused. Complainant and eye witnesses no doubt turned hostile towards the prosecution case but still the accused can be convicted by placing reliance upon the statement of the complainant and eye witnesses recorded under Section 161 Cr.P.C and by placing reliance on the testimony of the official witness. Thus, the accused deserves to be convicted.

9. On the other hand learned defence counsel has argued that the case of the prosecution is nowhere close to have been

proved against the accused. The main star witnesses i.e. complainant and eye witnesses as per prosecution, have turned hostile. Thus, the element of doubt has crept in the prosecution case. The benefit of which must certainly go to the accused. So, the accused deserves to be acquitted.

10. In the considered and confirmed opinion of the Court, the accused deserves to be acquitted from the charges framed against him because the case of prosecution has fallen way short from the allegations for which charge has been framed against the accused. In the case in hand, Gurpreet Singh as PW.1, Sukhmanjit Singh as PW.2 and Rachpal Singh as PW.3 were examined by the prosecution but no concrete evidence came on record against the accused. PW1 Gurpreet Singh i.e. complainant of the occurrence, as per the prosecution story, turned hostile and destroyed the prosecution case. The star witness of the present case namely PW.1 Gurpreet Singh who is complainant in the FIR turned his back towards the prosecution case and has categorically stated that he does not know about the facts of present case and the

accused has not committed any offence. He even went on to state that he never recorded any statement before the police in the present case. Thus, PW.1 Gurpreet Singh was declared hostile on the request of the learned APP for the State but nothing fruitful to the prosecution case could be elicited from his cross-examination. He backed out from his statement recorded with the police and stated that he has not suffered any statement to the police and the police has obtained his signatures on blank papers. In addition to this witness, the prosecution has examined Sukhmanjit Singh as PW.2 and Rachpal Singh as PW.3 who are alleged eye witnesses in the present case but they too did not support the prosecution case. They have also categorically stated that they do not know the facts of present case and the accused has not committed any offence. They also stated that they never recorded any statement before the police in the present case. Thus, PW.2 Sukhmanjit Singh and PW.3 Rachpal Singh were also declared hostile on the request of learned APP for the State but nothing fruitful to the prosecution case could be elicited from their cross-examination.

They backed out from their statements suffered under Section 161 Cr.P.C and stated that they have not suffered any statement to the police. In addition to aforesaid witnesses, the prosecution has examined ASI Kulwant Singh i.e. investigating officer of present case as PW.4 but whole of the investigation done by the investigating officer was on the basis of statement of complainant. Investigating officer himself is not an eye-witness and has no personal knowledge about the occurrence as nothing was happened in his presence. He has not recovered anything in this instant case from any accused. He further admits in his cross-examination that no CCTV footage was taken by him in possession of place of occurrence to corroborate the prosecution case. Hence just on the basis of statement of investigating officer, accused cannot be convicted. Thus, to summarize, there is no cogent evidence against the accused in the present case which could support the prosecution case. Statements recorded under Section 161 Cr.P.C can only be used for contradictions if person suffering statement appears during the trial which was done by learned APP

for the State, still no concrete material could be brought on record by the prosecution against the accused. Hence this Court has no other option except to grant benefit of doubt to the accused as identity of the accused being perpetrator of the occurrence has not been established by the prosecution. So, by giving benefit of doubt, I hereby acquit the accused of the charges framed against him. His bail bonds and surety bonds already furnished will continue for a period of 6 months as per the provisions of Section 437-A Cr.P.C. If any appeal or revision has not been filed within a period of 6 months, the bail bonds and surety bonds would discharge automatically and no separate order in this regard would be passed. Case property, if any, be disposed off, as per rules, after awaiting the result of appeal/revision, if any. File be consigned to Judicial Record Room, Zira after due compliance.

Pronounced in open court:-
Dated:08.08.2025.
Kapil,
Stenographer-II

(Deepal Singh Chhina), PCS,
Judicial Magistrate Ist Class,
Zira. UID-PB0468.

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Sh.H.S.Dhillon Adv.
Accused Daljit Singh Proclaimed Offendor.

No PW is present. Adjournment requested. Perusal of the file shows that in the present case the prosecution has already availed six effective opportunities but has failed to conclude its entire evidence. Further, the star witnesses of present case have already turned hostile i.e. complainant on whose testimony instant FIR bearing no.66 dated 02.06.2022 was registered and other eye alleged witnesses i.e. Sukhmanjit Singh and Rashpal Singh. I.O has already been examined as PW.4. Hence, no useful purpose would be served by examining the remaining prosecution witnesses who are witnesses of memo and doctor who conducted MLR of complainant. Therefore, finding no justification, the evidence of the prosecution is closed by order. Statement of accused under Section 313 Cr.P.C recorded. Arguments heard. Vide my separate judgment of today, accused is acquitted from the charges leveled against him. His bail bonds and surety bonds already furnished will continue for a period of 6 months as per the

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