

Sukhdev Singh and Others Vs. State of Punjab

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Court : Punjab and Haryana

Decided On : Oct-03-2013

Appellant : Sukhdev Singh and Others

Respondent : State of Punjab

Judgement :

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH (i) Crl. Appeal No.S-1851-SB of 2002 Date of Decision: October 03, 2013 Sukhdev Singh and others ...Appellants VERSUS State of Punjab ...Respondent (ii) Crl. Revision No.2429 of 2002 Bahadur Singh ...Petitioner VERSUS State of Punjab and others ...Respondents CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH Present: Mr.Angel Sharma, Advocate, for the appellants (in CRA No.S-1851-SB of 2002) and for respondents No.2 to 9 (in CRR No.2429 of 2002). Mr.J.S.Brar, Asstt. Advocate General, Punjab for the respondent-State. Mr.H.R.Nohria, Advocate for the complainant (in CRA No.S-1851-SB of 2002) and for the revision-petitioner (in CRR No.2429 of 2002) **** INDERJIT SINGH, J.

This judgment shall dispose of two connected cases i.e. CRA No.S-1851-SB of 2002 and CRR No.2429 of 2002 arising out of the same judgment of conviction and order of sentence dated Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh Crl. Appeal No.S-1851-SB of 2002 and connected case -2- 18.10.2002 passed by learned Addl. Sessions Judge (Adhc.), Sangrur, whereby the appellants were held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of six months each

under Section 148 IPC and further convicted and sentenced to undergo rigorous imprisonment for a period of three months each under Section 323 read with Section 149 IPC and they were further convicted and sentenced to undergo rigorous imprisonment for a period of six months each under Section 342 IPC. Appellant Sukhdev Singh was further convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of ` 500/- under Section 325 IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months, whereas appellants Baldev Singh, Paramjit Singh, Charan Pal Singh, Jit Singh, Ranjit Singh, Malkiat Singh and Kuldeep Singh were convicted and sentenced to undergo rigorous imprisonment for a period of six months each and to pay a fine of ` 500/- each under Section 325 read with Section 149 IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months each. All the sentences were ordered to run concurrently. Revision-petitioner Bahadur Singh has filed CRR No.2429 of 2002 for enhancing the sentence of the accused-respondents and for convicting accused-respondents under Sections 364 IPC instead of Section 342 IPC. The brief facts of the prosecution case are that FIR in the present case has been registered on the statement of Bahadur Singh Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh CrI. Appeal No.S-1851-SB of 2002 and connected case -3- dated 18.03.1997 made before ASI Najar Singh. As per prosecution case, complainant Bahadur Singh along with his brother Piara Singh was standing at bus stand Mehal Khurd in order to board a bus. Piara Singh, brother of the complainant, had gone to one side for passing urine and in the meantime Sukhdev Singh, Baldev Singh, Charan Singh, Kuldeep Singh, Paramjit Singh and Ranjit Singh came in a jeep being driven by relative of Kuldeep Singh at about 8.30 A.M. Sukhdev Singh was armed with .12 bore DBBL gun and the other accused were armed with sotis and they started giving blows on the person of Piara Singh by means of sotis. Malkiat Singh and Jit Singh also came there and they also raised lalkara upon which Sukhdev Singh, Baldev Singh, Charan Singh caught hold Piara Singh from his legs, while Kuldeep Singh, Ranjit Singh, Jit Singh and brother-in-law of Kuldeep Singh caught hold of Piara Singh from the arms and put him in the jeep and went towards the fields. Out of fear, the complainant went towards the village. The said occurrence was also

witnessed by Malkiat Singh and Banta Singh, who were also standing there. The motive behind the occurrence was that complainant purchased two kanals of land. Hari Singh and Lal Singh also purchased two kanals each and they had joint khata. Water course was demolished by Hari Singh but in pursuance of orders of the Court, it was got re-constructed. About two years back, security proceedings under Section 107/151 Cr.P.C. were initiated against them. On the statement of complainant, case was registered under Sections 364, 323, 148 and 149 IPC against accused persons. During the investigation, Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh Crl. Appeal No.S-1851-SB of 2002 and connected case -4- conducted by ASI Najar Singh, he recovered Piara Singh from the custody of Sukhdev Singh when police party along with complainant and Jarnail Singh, Sarpanch went to the house of Sukhdev Singh. Sukhdev Singh and Paramjit Singh were arrested on the spot. Injured was referred to PHC Mehal Khurd. Rough site plan was prepared. Statements of witnesses were recorded. After necessary investigation challan was presented against the accused-appellants. On presentation of challan against accused-appellants, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Appellant Ranjit Singh, Malkiat Singh and Kuldeep Singh were also summoned under Section 319 Cr.P.C. Finding prima facie case, accused-appellants were charge-sheeted under Sections 148, 364 read with Section 149 and 325 read with Section 149 IPC, to which they pleaded not guilty and claimed trial. In support of its case, prosecution examined PW-1 Dr.Ashwani Kumar Ahuja, who X-rayed Piara Singh and found no fracture on para nasal sinus vice injury No.4 whereas there was fracture of 7th rib without callous formation on the left side of the chest qua injury No.15 as per MLR dated 18.03.1997. PW-2 Bahadur Singh, complainant mainly deposed as per prosecution version. In chief-examination, he also stated that Sukhdev Singh gave butt blow on the right flank of his brother. PW-3 Dr.Sunil Sehgal, Medical Officer, medico-legally examined Piara Singh on 18.03.1997 and found following injuries:-

1. Lacerated wound .7 cm x .25 cm outer side of the Gulati Vineet left eye brow. Fresh bleeding was present. 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh Crl. Appeal No.S-1851-SB of 2002 and connected case -5- 2. Contusion 2 cm x 1 cm reddish on right side of upper lip.

3. Lacerated wound 3 cm x .5 cm x .5 cm muscle deep on inner and lower part of upper lip. Fresh bleeding was present.
4. Bleeding was present from right nostril. No external mark of injury was seen.
5. Abrasion 3 cm x 1 cm in front of left cheek just below left eye.
6. Contusion 4 cm x 2 cm on front of tip of right shoulder reddish in colour.
7. Various sizes of contusions reddish in colour present on whole of back extending from upward to downward. Sizes are 15 cm x to 2.5 cm., 15 cm x 2.5 cm, 20 cm x 2.5 cm, 22 cm x 2.5 cm.
8. Reddish contusion 15 cm x 2.5 cm below left shoulder on outer aspect.
9. Reddish contusion 2.5 cm x 21 cms on right buttock, with intervening bluish margin.
10. Contusion 15 cm x 2.5 cm on outer side of right joint. Reddish in colour.
11. Reddish contusion 2.5 cm x 15 cm with intervening bluish line.
12. An abrasion 2.5 cm x .5 cm reddish in colour in front of right knee joint.
13. Abrasion 5 cm x 2.5 cm reddish in front of lower part of left knee joint.
14. Tenderness was present on outer aspect of left chest lower ribs, crepitus.
15. Abrasion 1 cm x 2.5 cm on front of right thumb.

. PW-4 Piara Singh, injured, also deposed as per prosecution version but in chief-examination he attributed specific Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh CrI. Appeal No.S-1851-SB of 2002 and connected case -6- injuries to specific accused. PW-5 MHC Ajaib Singh, is a formal witness, who deposed regarding depositing of soti etc. with him. PW- 6 Constable Bali Ram, is also a formal witness, who tendered into evidence his affidavit Ex.PW6/A. PW-7 Makhan Lal proved the licence of the gun of Sukhdev Singh. PW-8 Chajju Ram deposed regarding ownership of the jeep. PW-9

Dr.Ashwani Kumar Ahuja (again examined) deposed the same facts as deposed earlier as PW- 1. PW-10 Bant Singh, is the eye witness to the occurrence. He also deposed as per prosecution version. PW-11 ASI Najar Singh, is the Investigating Officer. He deposed regarding investigation conducted by him in the present case. PW-12 Constable Malkiat Singh, is also a formal witness, who mainly deposed regarding depositing of samples in the office of Chemical Examiner, Patiala. PW-13 Buta Singh, Patwari, mainly deposed regarding preparing of scaled site plans. PW-14 Head Constable Randhir Singh mainly deposed regarding taking jeep into police possession. PW-15 Constable Dara Singh deposed regarding delivering of Special Report to the Illaqa Magistrate. PW-16 ASI Ajit Singh deposed regarding disclosure statement made by accused Sukhdev Singh regarding concealing his licenced gun. PW-17 Dr.Sunil Sehgal (again examined after summoning of other accused) deposed same facts as deposed earlier as PW-3. PW-18 Hardeep Kumar, Civil Ahlmad, Barnala mainly brought the record of the case. At the close of prosecution evidence, the accused- appellants were examined under Section 313 Cr.P.C. and they denied Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh CrI. Appeal No.S-1851-SB of 2002 and connected case -7- the correctness of the evidence and pleaded themselves as innocent. In defence, accused-appellants examined DW-1 Nirmal Singh, DW-2 Avtar Singh, DW-3 Beant Singh and DW-4 DSP Baldev Singh. On the basis of the evidence produced by the prosecution, accused-appellants were convicted and sentenced by the learned Addl. Sessions Judge (Adhc.), Sangrur, as stated above. At the time of arguments, learned counsel for the appellants argued that version of the prosecution is improbable. If Bahadur Singh was present at the bus-stand Mehal Khurd, then why no injury was given to him by the accused-appellants. It creates doubt that either he was not an eye witness to the occurrence or no such occurrence took place at bus stand Mehal Khurd. Otherwise also, there is discrepancy whether they were standing at the bus stand or going towards the bus stand. Learned counsel for the appellants further argued that as per prosecution version occurrence took place at 8.30 A.M. in the morning but no other independent witness was examined to support and corroborate the prosecution version. He next argued that only witness Bant Singh, who was examined, cannot be held as independent witness because as per his cross-

examination, he had litigation with his brother accused-appellant Baldev Singh and further he has also inimical relation with other accused-appellants. Learned counsel for the appellants further contended that version is improbable as after registration of the case, police party along with Jarnail Singh, Sarpanch went to the house of Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh CrI. Appeal No.S-1851-SB of 2002 and connected case -8- accused-appellant Sukhdev Singh and recovered Piara Singh, to whom Sukhdev Singh and Paramjit Singh were giving beatings at that time also. There was no serious injuries given to Piara Singh. Mostly the injuries are abrasions, contusions etc. There was only one fracture of one rib with blunt weapon and that injury falls under Section 325 IPC. There was no other fracture etc. It looks improbable that 7-8 persons caused injuries to Piara Singh at bus stand Mehal Khurd and then they took him forcibly in the jeep to the house of Sukhdev Singh and also gave injuries to him there with soties etc. till the police reached after about one hour. He next contended that version is false and concocted one. The occurrence has not taken place as is the case of the prosecution. Learned counsel for the appellants further argued that no jeep was recovered from the spot by the Investigating Officer nor any of the accused- appellants except appellants Sukhdev Singh and Paramjit Singh were found there. The statements of PWs that other accused-appellants were seen fleeing from the spot is a material improvement as they have been confronted with their statements and in the statements under Section 161 Cr.P.C. and also in view of the statement of Investigating Officer, no other accused-appellant was seen fleeing from the spot. He next argued that a reasonable doubt exists regarding the prosecution version. PWs are not reliable witnesses. Jarnail Singh, Sarpanch has also enmity with the accused-appellants. Injured Piara Singh has also made material improvement by stating that butt blow was given by accused-appellant Sukhdev Singh to him. Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh CrI. Appeal No.S-1851-SB of 2002 and connected case -9- He further contended that only licenced gun from Sukhdev Singh and one soti from Paramjit Singh were recovered. No weapon of offence has been recovered from any other accused, which also creates doubt regarding participation of other accused-appellants in the commission of offence. Learned counsel for the

appellants, therefore, argued that there being merit in the appeal, the same should be allowed and appellants should be acquitted and the revision petition, having no merits should be dismissed. On the other hand, learned Asstt. Advocate General, Punjab for the respondent-State argued that case of the prosecution has been duly proved by injured and eye witnesses. Their statements have been duly supported and corroborated by the medical evidence. He further argued that arrest of accused-appellants Sukhdev Singh and Paramjit Singh on the spot further supports and corroborates the prosecution version. There is nothing on the record to show as to why the accused-appellants have been falsely implicated in the present case. Learned State Counsel, therefore, argued that there being no merit, the appeal should be dismissed. Learned counsel for the revision-petitioner (complainant) argued that sentence imposed upon accused-respondents should be enhanced and they be also convicted under Section 364 IPC instead of Section 342 IPC. I have gone through the evidence on record minutely and carefully and have heard learned counsel for the appellants and learned Asstt. Advocate General, Punjab for the respondent-State as Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh CrI. Appeal No.S-1851-SB of 2002 and connected case -10- well as learned counsel for the revision-petitioner. From the evidence on record, I find that during the pendency of the appeal, appellant Paramjit Singh and Jit Singh have died and the proceedings against them are abated. As per prosecution version, Bahadur Singh and his brother Piara Singh were going to Barnala to attend some case against Nek Singh in the Court. The present accused-appellants have no concern with that case nor it can be held that they have caused injuries due to that case. None of the present accused-appellants have purchased the land nor they have any concern regarding the dispute of water course. The dispute was between Bahadur Singh on one side and Hari Singh and Lal Singh on the other side. Even, Piara Singh had neither purchased the land nor had the water course dispute with the accused-appellants. There is no motive given as to why Piara Singh was given injuries by the accused-appellants. A reasonable doubt exists regarding the prosecution version of giving injuries to Piara Singh at bus stand Mehal Khurd. Either no injuries were given at the bus stand Mehal Khurd and no occurrence took place there or PW-2 Bahadur Singh complainant was not present there. If Bahadur Singh was present and

standing at the bus stand, why he was not given injuries by the accused-appellants because Bahadur Singh had purchased land and he had the water dispute with Hari Singh etc. There is no allegation that accused-appellants caused injuries at the instance of Nek Singh with whom the litigation was pending at Barnala. The witnesses are also discrepant whether they were Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh Crl. Appeal No.S-1851-SB of 2002 and connected case -11- standing at bus stand or were going to bus stand Mehal Khurd and occurrence took place near the bus stand. One PW-10 Bant Singh, independent witness has been examined but in cross-examination he stated that accused-appellant Baldev Singh is his real brother. 2-3 cases are pending between him and Baldev Singh. He admitted that accused-appellant Sukhdev Singh had made a complaint against him on 01.07.1996 to the Director, Panchayati Raj. He admitted that said complaint was against him, Jarnail Singh and wife of Saudagar Singh and said complaint was regarding illegal possession over the Shamlat land. Keeping in view this cross-examination, it is clear that PW-10 Bant Singh cannot be held as independent witness. Rather, he is the interested witness and has motive to depose against the accused- appellants. As regarding statement of Bahadur Singh, complainant while appearing in the Court, made material improvements by stating that appellant Sukhdev Singh hit the butt of the gun on the right flank of his brother. This fact is not mentioned in the FIR, where the allegations are only regarding giving injuries to Piara Singh by accused. PW-4 Piara Singh, injured also when appeared in the Court, attributed specific injuries to particular accused and he was duly confronted with his statement. In his cross-examination, he has made so many material improvements. Otherwise also, only lalkara is attributed to accused-appellant Malkiat Singh and no injury is attributed to him. Appellant Ranjit Singh, Malkiat Singh and Kuldeep Singh have been found innocent by the investigating agency and they Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh Crl. Appeal No.S-1851-SB of 2002 and connected case -12- have been summoned under Section 319 Cr.P.C. The perusal of the statement of PW-11 ASI Najar Singh shows that when he reached the house of accused Sukhdev Singh along with complainant and Jarnail Singh, Sarpanch, only Sukhdev Singh and Paramjit Singh were found causing

injuries to Piara Singh and they were apprehended on the spot and soti was recovered from Paramjit Singh. Keeping in view the nature of the injuries given to Piara Singh, it looks that these injuries were given at the house of Sukhdev Singh by accused-appellants Sukhdev Singh and Paramjit Singh. PW-3 Dr.Sunil Sehgal, in cross- examination has stated that injury Nos.1 to 5 could be caused with fist blows and injury Nos. 12 and 13 could be result of fall on hard surface. There was no visible injury regarding injury No.15, which could be caused with hard object but not with blunt weapon. This could be impact of a fall or impact on the back. Out of these injuries, mostly the injuries were abrasions and contusions except injury Nos.1 and 3, which were lacerated wounds, one is on outer side of left eye brow and the other is on the lower part of upper lip. So, the version that eight persons caused injuries at bus stand Mehal Khurd with sotis looks doubtful. It is the duty of the Court to scrutinize the evidence cautiously and carefully to find out the truth. It is the duty of the Court to separate grain from the chug. As per PW-11 ASI Najjar Singh, Investigating Officer, PW-4 Piara Singh was found in the house of Sukhdev Singh and at that time accused-appellants Sukhdev Singh and Paramjit Singh were giving injuries to him. Therefore, from the evidence on record, it is clear that both these accused have given the Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh CrI. Appeal No.S-1851-SB of 2002 and connected case -13- injuries. As already discussed, accused-appellants Paramjit Singh and Jit Singh have died during the pendency of the appeal and therefore, proceedings against them are abated. A reasonable doubt exists regarding participation in commission of offence by accused- appellants, Baldev Singh, Charan Pal Singh, Ranjit Singh, Malkiat Singh and Kuldeep Singh. No jeep was found at the house of accused-appellant Sukhdev Singh when the Investigating Officer reached there. None of above-stated accused-appellants were found present at the house of Sukhdev Singh. Only accused-appellants Sukhdev Singh and Paramjit Singh were found present there. The statements of the PWs that other accused fled from the spot on seeing the police, is a material improvement, which goes to the root of the case and these statements cannot be believed. No weapons or sotis etc. were recovered from the above-stated six accused- appellants. Therefore, a reasonable doubt exists regarding the involvement of Baldev Singh, Charan Pal Singh, Ranjit Singh, Malkiat Singh and

Kuldeep Singh. In view of the above, appeal qua appellants Baldev Singh, Charan Pal Singh, Ranjit Singh, Malkiat Singh and Kuldeep Singh is allowed and the impugned judgment of conviction and order of sentence passed by learned Addl. Sessions Judge (Adhc.) Sangrur qua them is set aside. Since, they are on bail, their bail bonds stand discharged. As regarding appellant Sukhdev Singh, the impugned judgment of conviction passed by learned Addl. Sessions Judge Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh Crl. Appeal No.S-1851-SB of 2002 and connected case -14- (Adhc.) Sangrur qua him is upheld. Keeping in view the fact the nature of injuries and the main offence is only under Section 325 IPC and the fact that occurrence took place in the year 1997 i.e. 16 years ago and since then no fight or quarrel took place between the parties, in my view one opportunity should be given to accused-appellant Sukhdev Singh to reform himself. Therefore, instead of sentencing him to imprisonment, it is ordered that he be released on probation on furnishing probation bonds in the sum of ` 25,000/- for one year with the condition to keep good conduct and good behaviour during the said period and not to repeat the offence and will receive sentence if called upon during the said period. The fine imposed upon the appellant is converted into the cost of litigation. Appellant Sukhdev Singh is further directed to pay ` 50,000/- as compensation to Piara Singh, injured/his LRs. The probation bonds be furnished within one month from today and compensation of ` 50,000/- be also deposited with the trial Court within one month, which shall be paid to Piara Singh/his Legal heirs. Resultantly, the appeal qua Sukhdev Singh stands partly allowed and appeal is allowed qua appellants Baldev Singh, Charan Pal Singh, Ranjit Singh, Malkiat Singh and Kuldeep Singh whereas appeal qua appellants Paramjit Singh and Jit Singh stands abated. CRR No.2429 of 2002 As regarding revision petition filed by complainant Bahadur Singh, I have heard learned counsel for the revision-petitioner as well as learned counsel for respondents. No ground is made out for Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh Crl. Appeal No.S-1851-SB of 2002 and connected case -15- enhancing the sentence of appellant Sukhdev Singh as discussed above. As regarding the offence under Section 364 IPC, I find that there is no cogent evidence produced on the record by the prosecution to prove kidnapping or

abduction in order to cause murder. There was no serious injury or no injury has been caused with sharp edged weapon nor any of the witnesses stated that Piara Singh was kidnapped for the purpose of murder. Otherwise also, a reasonable doubt exists regarding the occurrence at bus stand Mehal Khurd. Nothing has been pointed out to show how the findings of the learned trial Court are incorrect. Therefore, finding no merit, the revision petition stands dismissed. (INDERJIT SINGH) October 03, 2013 JUDGE Vgulati Gulati Vineet 2013.10.11 16:24 I attest to the accuracy and integrity of this document Chandigarh

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