
(2021) 12 P&H CK 0058

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 41935, 45912, 48496 Of 2021 (O& M)

Manjeet Singh @ Pappu And Others

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 20-12-2021

Acts Referred:

Indian Penal Code, 1860 — Section 148, 149, 308, 323, 325, 506

Citation : (2021) 12 P&H CK 0058

Hon'ble Judges : Gurvinder Singh Gill, J

Bench : Single Bench

Advocate : Gurinder Singh Goraya, K.S.Dhaliwal, Rajiv Sidhu

Final Decision : Allowed

Judgement

Gurvinder Singh Gill, J

1. This order shall dispose of the above mentioned three petitions wherein petitioners Manjeet Singh @ Pappu, Jagir Singh and Mahinder Singh @ Chhinda, seek grant of regular bail in a case registered vide FIR No. 167, dated 7.6.2021, Police Station Pehowa, District Kurukshetra, under Sections 148, 149, 308, 323, 325, 506 IPC.

2. The FIR in question was lodged at the instance of Gurpreet Singh s/o Gurnam Singh wherein it is alleged that on 6.6.2021, a verbal altercation had been taken place between him and Pappu, Jagir, Chhinda and Trilok Singh regarding boundary of their fields and in respect of which a Panchayat was convened to resolve the matter but the same could not be resolved. Later on the same day at about 3 pm when he along with his father was returning back to his house from the fields, they were waylaid by Jagir Singh who was armed with 'gandasi', Chhinda armed with 'gandasi', Trilok armed with 'lathi' and Pappu armed with 'lathi'. It is alleged that while Chhinda raised a lalkara exhorting his companions not to spare the complainant and his father and pursuant to which Chhinda gave

a blow with 'gandasi' to the complainant hitting him on his nose. Jagir Singh is stated to have given a blow with 'gandasi' on the head of Gurnam Singh. When the complainant's father Gurnam Singh fell down, Pappu and Trilok Singh gave 'lathi' blows to him hitting him on his left eye, back and arm. When they raised alarm Jagir Singh's wife Kulwant Kaur and Chhinda's wife also came there and they gave kicks and fist blows to Gurnam Singh while he was lying on the ground. Upon seeing other people gathering at the spot, they fled away from the place of occurrence.

3. Learned counsel for the petitioner(s) has submitted that the genesis of occurrence has been suppressed inasmuch as it is a case of cross-versions wherein two persons from the side of the accused also sustained injuries and in respect of which a separate FIR i.e. FIR No.168, dated 7.6.2021, Police Station Pehowa, District Kurukshetra, under Sections 323, 34 and 506 IPC was lodged. It has been submitted that since one of the accused namely Jagir Singh has sustained an injury on his head also, the same would in fact attract an offence under Section 308 IPC whereas the police in order to extend undue benefit to the opposite side has not added any such offence.

4. Opposing the petition, learned State counsel has submitted that it is a case where the complainant's side had sustained more number of injuries and more serious injury and as such even if it is accepted that two of the accused had sustained some injuries, the same had apparently been caused in self-defence. Learned State counsel has however, informed that while petitioner-Jagir Singh and Manjeet Singh have been behind bars since the last about 3 ½ months, petitioner Mohinder Singh have been behind bars for about 2 months and 20 days. It has also been informed that none of the petitioner(s) is involved in any other case. It has been informed that although challan has been presented, but the charges are yet to be framed and as such none out of the 12 PWs cited has been examined so far.

5. I have considered rival submissions addressed before this Court.

6. The petitioner(s) have annexed MLRs in respect of the injuries sustained by two of the accused and by three persons from the complainant's side wherein the injuries sustained by them have been described as follows:

Injuries sustained by complainant Gurpreet Singh :

1. Lacerated wound over mid of nasal bridge sized about 1 cm x 0.5 cm x 0.5 cm Irregular margins, associated with active nasal bleeding Adv. Xray, ENT Opinion.
2. C/o Pain over upper left region of upper jaw, Adv. Xray Dental Surgeon Opinion.
3. Lacerated wound over posterior Apset of left hand Adv. Xray Ortho opinion.
4. Reddish abrasion over outer side of left arm.

Injuries sustained by complainant's father Gurnam Singh

1. Lacerated wound over right side of parietal region of head sized about 7 cm x 0.5 cm x 0.5 cm Irregular Margins, associated with bleeding Adv. NCCT Head Surgeon opinion.
2. Lacerated wound over left side of parietal region of head sized about 8cm x 0.5 cm x 0.5 cm. Irregular Margins Associated with bleeding Adv. NCCT Head Surgeon Opinion.
3. Swelling over whole left wrist with distal end of left forearm. Adv. Xray. Ortho Opinion.
4. Lacerated wound over postero-Medial Aspect of Palm of left hand and also on 3rd finger, Adv. Xray. Ortho opinion.
5. Swelling with reddish abrasion over both anterior and posterior aspect of whole right forearm. Adv. Xray orto opinion
6. C/o Pain over whole left shoulder Adv. Xray Ortho opinion.
7. Injuries sustained by the accused side are as follows:

Injuries sustained by accused Mohinder Singh

1. Lacerated wound over right side of parietal region of head sized about 5 cm x 0.5 cm x 0.5 cm Irregular Margins Associated with bleeding Adv. NCCT Head Surgeon Opinion.
2. Reddish abrasion over great Toe of right foot. Injuries sustained by accused Jagir Singh
1. Lacerated wound over parietal region of head sized about 6 cm x 0.5 cm x 0.5 cm Irregular Margins Associated with bleeding Adv. NCCT Head Surgeon opinion.
2. Swelling over proximal side of posterior aspect of right forearm and elbow Adv. Xray ortho opinion.
3. Lacerated wound over anterior aspect of base of middle finger of left hand Adv. Xray ortho opinion.
4. Reddish blue bruise over right lumbar and right Illiac region of abdomen abdomen is soft, non distended, Adv. USG abdomen, Surgeon opinion.
5. C/o pain over posterior aspect of left hand Adv. Xray Ortho opinion.

Injuries sustained by Kulwant Kaur

1. C/o Pain over parietal region of Head No LOC No vomiting Adv. Xray surgeon opinion.
2. C/o Pain over right side of middle back region.
8. A perusal of the aforesaid MLRs would show that both the sides have sustained lacerated wounds with the help of blunt edged weapons. While Gurnam

Singh on the side of complainant has sustained an injury on his head, it is Jagir Singh on the side of accused who has also sustained injury on his head. The aforesaid position would indicate that it would certainly be debatable as to which of the party was an aggressor. In any case, keeping in view the fact that challan already stands presented and conclusion of trial is likely to consume time inasmuch as no PW out of the cited 12 PWs have been examined so far and the petitioner(s) otherwise are stated to be having a clean record, further detention of the petitioner(s) will not serve any useful purpose.

9. The petitions, as such, are accepted and the petitioner(s) is ordered to be released on bail subject to his furnishing bail bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

10. A photocopy of this order be placed on the file of each connected case.