

**(2002) 10 P&H CK 0069**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Crl.A. No. 486-DBA of 1992

State of Punjab

APPELLANT

Vs

Mohinder Singh

RESPONDENT

---

**Date of Decision:** Oct. 17, 2002

**Citation:** (2002) 4 RCR(Criminal) 858

**Hon'ble Judges:** R.L.Anand, J and Hemant Gupta, J

**Advocate:** Mr. S.S. Randhawa, Deputy Advocate General, Punjab. Mr. K.S. Ahluwalia, Advocate and Mr. T.S. Sangha, Advocate., Advocates for appearing Parties

---

**Judgement**

Hemant Gupta, J.

1. This order shall dispose of Criminal Appeal No. 486DBA of 1992 and Criminal Appeal No. 487DBA of 1992 filed by the State of Punjab against the judgment dated 30.5.1992 acquitting both sets of accused.
2. Both the appeal arise out of the same FIR i.e. No. 38 dated 14.7.1986 although both the sets of accused were separately chargesheeted.
3. The FIR was recorded on the statement of Mohinder Singh, accused in Criminal Appeal No. 486DBA of 1992 wherein he stated that he is resident of village Khizargarh and at about 4.00 p.m. on 15.7.1986, he was ploughing the fields of Bhag Singh son of Rattan Singh with his bullocks. Sher Singh son of Gainda Singh armed with lathi came there. Bhupinder Singh and Jagdish Singh were raising wats nearby. Sher Singh immediately on his arrival, gave a gandasi blow which hit him on his left elbow. Joginder Singh gave him a soti blow which slightly hit him on his right shoulder. On raising alarm, Jagdish Singh and Bhupinder Singh rescued him, otherwise they would have caused more injuries to him.
4. During investigation, the investigating agency found that both sets of accused have caused injuries to each other and thus submitted two separate reports under Section 173 of the Code of Criminal Procedure for offence under Sections 326, 323 read with Section 34 of the Indian Penal Code. Vide separate judgments of the same

date, the learned trial Magistrate gave benefit of doubt to both sets of accused and acquitted them of the charges. The trial court found that the prosecution witnesses in their statements have not explained the injuries suffered by the accused on the date of occurrence. It also held that Bhupinder Singh who has allegedly rescued the complainant has not supported the prosecution version. The trial Court found that the motive explained by the complainant is not cogent and convincing as it was the complainant party which could be expected to be aggressor.

5. After hearing the counsel for the parties and going through the record, we do not find any illegality or impropriety in appreciation of the evidence of the trial Court. Both the parties have received injuries and none of the parties have explained the manner in which such injuries have been caused. The person who is alleged to have seen incident has not supported the complainant. The motive attributed by the complainant has not been found to be justified by the trial Court. Since the injuries have not been explained, therefore, the genesis of the occurrence has been withheld by the prosecution. It is not proved that which party was aggressor and how the occurrence took place. In the absence of any explanation of the injuries and the genesis of occurrence having not proved, we find that the trial court has taken a plausible view on the basis of the evidence adduced before it. Consequently, we do not find any reason to differ with the finding recorded by the trial court and dismiss the appeals.

Appeals dismissed.