

IN THE COURT OF WAJID ALI,
ADDITIONAL SESSIONS JUDGE, HARIPUR AT GHAZI.

State vs. Mst. Gul Shahani

Criminal Case No. 22/7
Date of Institution 19.10.2020
Date of Decision 05.07.2023

State through Hassan Rehman s/o Gul Rehman caste
Mashwani r/o Garhi Mera, Tehsil Ghazi District Haripur.
(Complainant)

Versus

1. Mst. Gul Shahani w/o Said Maroof
2. Mst. Madeeha w/o Taufeeq Ahmad
3. Mst. Rehmat Bibi w/o Mazhar Ali
4. Shamas s/o Said Maroof
Caste Mashwani, residents of Garhi Mera, Tehsil
Ghazi District Haripur.

(Accused facing trial)

Order # 68

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Accused named above were indicted in case FIR No. 146 dated 27.03.2020 u/s 337-A(II)/334/34 of the PPC for assaulting and causing injuries to the complainant party.

2. Hassan Rehman s/o Gul Rehman and *et al* on 26.03.2020 at about 14:30 in Tehsil Headquarter Ghazi (THQ) reported that he along with injured namely; Shehzad Hassan and Kashif Rehman, at about 01:30 PM was busy in construction work of the house of one Muhammad Rehman (cousin). In the meanwhile, Shamas s/o Said Maroof along with his mother while swearing them alleged that they are violating their privacy and asked to stop the construction work. Upon this demand, complainant alleges to have urged the accused party to contact the owner of the property however he along with others came under heavy blows of knife and nailed stick. As a result of assault, complainant along with others received injuries on various parts of body. Complainant alleged to have no enmity with


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the accused party and charged them for assaulting and causing injuries.

3. On completion of investigation, charge-sheet u/s 173 of the Cr. P.C was submitted against the accused. Accused were on bail. After handing over the necessary documents under section 265-C of the Cr.P.C. Charge was framed on 09.12.2020 to which they pleaded "not guilty" and claimed trial. The prosecution was put to evidence. IHC Muhammad Ali was examined as PW-01; who is the inquiry officer. On receiving Mad No. 19 & No. 18 dated 26.03.2020 and medical reports, he submitted his inquiry report Ex.PW1/1. Patrolling Officer (Motorways) Faisal Hafeez was examined as PW-02; he prepared injury sheets Ex.PW2/1, Ex.PW2/2, and Ex.PW2/3 of complainant, Shahzad Hassan and Kashif Rehman respectively. ASHO Sajid Nawaz was examined as PW-04; he on receipt of DD No. 18 incorporated the same into FIR Ex.PA. SHO Muhammad Nawaz was examined as PW-04; he submitted complete challan Ex.PW4/1 of the instant case. Complainant produced and examined one Mujeeb-ur-Rehman s/o Aziz-ur-Rehman nad Kashif Rehman as PW-05 & PW-07 while he himself recorded statement as PW-06.
4. Learned counsel for the accused submitted application u/s 265-K of the Cr.PC for acquittal of the accused contending that instant case is lodged just to counter the case filed by the accused against the complainant; that no private eye-witness is associated with the occurrence despite the fact that the alleged place of occurrence is surrounded by

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residential houses; that in view of the available material on record there is no probability of conviction, hence requested acquittal of the accused/petitioners.

5. Arguments heard and record perused. Record reflects that the case of the prosecution is full of discrepancies and contradictions in view of which reasonable doubts come forward before the court which can never be overlooked. In the initial report, Ex.PW6/1 although the complainant has directly charged all the accused along with two females however they were never named in the report nor known to the complainant but have also been implicated subsequently by name as Mst. Madeeha and Mst. Rehmat Bibi. Needless to mention here that such charging is without any identification parade.

6. The site plan is prepared on pointation of the complainant and as stated earlier the lady accused were never known to him however they have also been pointed out at Point No. 06 & 07 without their identification. Likewise, one Mujeeb-ur-Rehman PW-05 who is stated to have shifted the injured from the place of occurrence to the hospital has subsequently been introduced and he never came to the spot and the PW-06 & PW-07 namely; Hassan Rehman and Kashif Rehman (the injured) have also improved upon their statements to this effect. This witness was subsequently introduced. I may observe that both the injured who were allegedly present on the spot have been examined as PW-06 & PW-07 however they have not narrated the story as per initial report. Regarding the cause of occurrence, both the

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PWs are at variance with each other and have not nominated the female accused and even the statements of both these PWs narrate different versions. PW-06 stated during cross-examination that they reached the hospital at about 01:30 PM while as per record the alleged occurrence had taken place at 01:30 PM. The other injured has not even been produced to support the prosecution version. It cannot be confirmed from the record that who has caused injury to whom and a general role is attributed to all the accused in which circumstances the liabilities cannot be fixed on any of the accused facing trial. I may observe that at the relevant time of alleged occurrence in the instant matter reported vide FIR No. 146 dated 26.03.2020, another parallel report was made by the accused party vide DD No. 19 dated 26.03.2020 charging the complainant party for causing injuries and assaulting them and this fact is still shrouded in mystery that who is aggressor and who was aggressed upon.

7. In view of these facts, the available evidence produced by the complainant party is full of doubts and in contradictions to the facts alleged in the initial report. Sticking to the trial will be a futile exercise and if the remaining witnesses are even examined there remains no probability of conviction of the accused party.

8. This is a cardinal principal of law that the benefit of slightest doubt shall go to the accused which is sufficient to discredit the prosecution story and entitle the accused for acquittal. The instant case is full of doubts and the

prosecution is failed to prove the charges leveled against the accused, thus, by extending the benefit of doubt and by exercising the jurisdiction u/s 265-K of the Cr.PC the accused 1). Mst. Gul Shahani w/o Said Maroof, 2). Mst. Madeeha w/o Taufeeq Ahmad, 3). Mst. Rehmat Bibi w/o Mazhar Ali and 4). Shamas s/o Said Maroof, caste Mashwani, residents of Garhi Mera, Tehsil Ghazi District Haripur are acquitted. They are on bail; their sureties are discharged from the liability of bail bonds.

9. Case property be kept intact till the period of appeal/revision, after which it shall be disposed of in accordance with law. File be consigned to the record room after its completion, compilation and scanning while record be returned to the quarters concerned.

Announced:
05.07.2023


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Addl. Sessions Judge,
Judicial District Ghazi.

Additional Sessions Judge,
Haripur at Ghazi.