

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

State vs. Hassan Rehman

Criminal Case No. 21/7
Date of Institution 19.10.2020
Date of Decision 05.07.2023

State through Mst. Gul Shahani w/o Said Maroof caste
Mashwani r/o Garhi Mera, Tehsil Ghazi District Haripur.
(Complainant)

Versus

1. Hassan Rehman s/o Gul Rehman
2. Shehzad Hassan s/o Hassan Rehman
3. Anees Rehman s/o Abdul Khaliq
4. Kashif Rehman s/o Shoukat-ur-Rehman
5. Saad Rehman s/o Shoukat-ur-Rehman
6. Waheed-ur-Rehman s/o Aziz-ur-Rehman
Caste Mashwani, residents of Garhi Mera, Tehsil
Ghazi District Haripur.

(Accused facing trial)

Order # 68

05.07.2023

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. Mst. Gul Shahani w/o Said Maroof (complainant) and *et al* on 26.03.2020 at about 14:40 in Tehsil Headquarter Ghazi (THQ) reported that she at about 01:30 PM along with other inmates of the house were busy in household chores when Hassan Rehman s/o Gul Rehman with hammer in his hand, Kashif s/o Shoukat armed with knife, Saad s/o Shoukat armed with pistol and Shehzad s/o Hassan Rehman with trowel in his hand broke down the wall and came inside her house. After that they took Shamas (son of complainant) out of the house and the complainant along with her daughter-in-laws went after them to rescue him. There the complainant party came under heavy blows of

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the accused party and were beaten up. The complainant received injuries due to heavy blows of head and body while her son received injuries on head, right shoulder and other body parts of the body. Similarly, the daughter-in-laws of the complainant also received such injuries. On their hue and cry, the accused fled from the spot. The motive behind the occurrence was stated to be an under construction house.

3. On completion of investigation, charge-sheet u/s 173 of the Cr.PC 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. Constable Amir Shah No. 173 was examined as PW-02, who took the parcels of the instant case to the FSL for chemical analysis vide Road Certificate No. 61/21 Ex.PW2/1. Patrolling Officer (Motorways) Faisal Hafeez was examined as PW-03; he prepared injury sheets Ex.PW3/1, Ex.PW3/2, Ex.PW3/3 and Ex.PW3/4 of Shamas, Mst. Madiha w/o Taufeeq Ali, Mst. Rehmat Bibi w/o Mazhar Ali and Mst. Gul Shahani respectively. ASHO Sajid Nawaz was examined as PW-04; he on receipt of DD No. 18 & 19 incorporated the same into FIR Ex.PA. SHO Muhammad Nawaz was examined as PW-05; he submitted

complete challan Ex.PW5/1 of the instant case. Complainant herself recorded statement as PW-06 while Mst. Madeeha Bibi, Ali Nawaz & Taufeeq were supporting witnesses of prosecution case.

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 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 presence of which there are doubts regarding the mode and manner of the occurrence. Statement of complainant is worth perusal wherein she in her examination-in-chief has stated that she on 26.03.2020 at 01:30 PM along with her daughter-in-laws was busy at home doing household chores while in her cross-examination she has deposed that the matter was reported to the police at 01:30 PM. She is the star witness of the matter but unable to recall the true account as adopted in the initial report. Only this contradiction makes the time, mode and manner of the occurrence highly doubtful. Apart from the above, in the initial report all the accused have been shown to be armed with various crime articles

however during the course of evidence failed to substantiate the same stance. 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. Likewise, PW-07 who has also sustained injuries in the occurrence has not supported this stance of the complainant who alleged that the occurrence took place inside the house. She has not supported the complainant regarding tearing of clothes of female injured. 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. 18 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.

6. 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.
7. 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 namely; 1. Hassan Rehman s/o Gul Rehman, 2. Shehzad Hassan s/o Hassan Rehman, 3. Anees Rehman s/o Abdul Khaliq, 4. Kashif Rehman s/o Shoukat-ur-Rehman, 5. Saad Rehman s/o Shoukat-ur-Rehman and 6. Waheed-ur-Rehman s/o Aziz-ur-Rehman, 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.

8. 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


Wajid Ali
Addl. District Sessions Judge,
District Court, Ghazi,
Haripur

Additional Sessions Judge,
Haripur at Ghazi.