

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRA-S-1377-SB of 2003

Date of decision:19.08.2015

Jit Singh and others

.....Appellants

versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. C.M. Munjal, Advocate,
for the appellants.

Mr. Varun Sharma, AAG, Punjab.

SHEKHER DHAWAN, J.

The appellants namely Jit Singh, Surjit Singh @ Barnala and Jarnail Singh preferred an appeal against judgment of conviction and order of sentence dated 17.07.2003 passed by Additional Sessions Judge, Fazilka, whereby the appellants along with co-accused were convicted and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.2,00/- each for the offences punishable under Sections 148, 323, 325 and 149 of Indian Penal Code.

Briefly stated, the case of the prosecution that on 09.05.2001 S.I. Arror Singh along with police party was present in Civil Hospital, Jalalabad where he received MLRs of Sardul Singh, Bhajan Kaur and Baljit Kaur and their statements were recorded after seeking fitness from the Medical Officer attending to them.

As per complainant-Sardul Singh, he along with his mother Bhajan Kaur and brother Nakhtool Singh and sister Baljit Kaur were present in their house after taking meal. At about 7.30 p.m. his maternal uncles Nirmal Singh and Gurtej Singh sons of Chanan Singh, Jarnail Singh son of Tarlok Singh, Jit Singh son of unknown, Gulati, Kali and Balwinder Singh sons of Jit Singh came in front of their house. At that time Jit Singh was armed with 'kirpan', Gulati was armed with iron pipe, Nirmal Singh, Gurtej Singh, Kali and Balwinder Singh were armed with 'dangs'. Surjit Singh son of unknown was armed with 'gandasa', Santi Mahant was armed with two seeri and Jarnail Singh also accompanied them. Nirmal Singh and Gurtej Singh raised '*Lalkara*' that they would be given the taste of taking share of land from brothers. On this, the complainant and Mukhtool Singh went forward and asked them that if they had any dispute with their mother, then they should talk in this respect. Jit Singh and his sons Gulati, Kali and Balwinder Singh picked up quarrel with them. Jit Singh then gave four 'kirpan' blows on his head. When his mother came forward to rescue him, at that time Surjit Singh alias Barnala gave 'gandasa' blow on her left ankle and right side of chest and left shoulder from the reverse side. Then he tried to snatch 'kirpan' from Jit Singh. Meanwhile, he gave another 'kirpan' blow to him which hit on his little finger and the finger adjoining thumb of right hand. He raised '*raula*' and accused ran away from the spot along with their respective weapons. Allegations are also that they had fired shots with gun. Injured were taken to hospital. Police started the investigation and after

completion of investigation, challan was presented.

During the trial, learned trial Judge framed charges against accused persons for offences punishable under Sections 307, 452, 325, 323, 148 and 149 IPC. However, accused pleaded not guilty and claimed trial. Prosecution examined as many as 8 witnesses including injured Sardul singh, Bhajan Kaur and Baljit Kaur. The accused were examined under Section 313 Cr.P.C. Initially, they denied all circumstances, pleaded their innocence and false implication. Accused did not lead any defence evidence.

Learned trial Judge after appreciating evidence available on file framed the following points for determination and decision:-

1. Whether accused constituted unlawful assembly with common object to cause injuries to Sardul Singh, Bhajan Kaur and Baljit Kaur with deadly weapons;
2. Whether accused Jarnail Singh and Satpal made murderous attack on them with their respective guns by entering into their house;
3. Whether accused caused grievous and simple injuries on the person of Sardul Singh, Bhajan Kaur and Baljit Kaur;

Learned counsel for the appellants took the plea that he does not challenge the judgment of conviction and rather he is on the point of order of sentence. Submissions made by learned counsel for the both the parties have been considered.

Learned counsel for the appellants mainly contended that co-convict (Nirmal and Gurtej) had also preferred appeal No. CRA-S-1398-SB of 2003 and the same was decided on 29.10.2013 with direction to the appellants to make payment of Rs.25,000/-

each, as compensation to injured Bhajan Kaur within two months, as provided under Section 357 Cr.P.C. whereas appellants had not challenged the judgment of conviction at that time.

Learned counsel representing the appellants Jit Singh, Sardul Singh and Jarnail Singh also made similar submissions that appellants are ready to compensate the injured Sardul Singh and Baljit Kaur as the injuries alleged to them are attributed to the present appellants.

Alleged occurrence had taken place on 09.05.2001 and appellants have also suffered so much agony of law by facing protracted litigation of more than 14 years. More so, they are not previous convicts. So their appeal to be decided on the same grounds.

Learned counsel for the complainant fairly conceded that both the injured viz; Sardul Singh and Baljit Kaur are not suffering from any permanent disability. At the same time, learned counsel for the complainant-injured took the plea that Sardul Singh had suffered injury on his skull when he was 20 years old and the injury attributed to Baljit Kaur was simple in nature. So, adequate compensation be awarded under Section 357 of the Code of Criminal Procedure.

Considering the matter that Sardul Singh had suffered injury on his skull and Baljit Kaur had swelling on the left dorsum from wrist to the fingers . Co-convicts have already been ordered to make payment of compensation.

All the three appellants are not the previous convicts and

their sentence also modified to the extent that they shall be released on probation on their furnishing personal bonds and surety bonds in the sum of Rs. 25,000/- each to the satisfaction of Chief Judicial Magistrate, Fazilka with usual terms and conditions. On this fact all the three appellants are directed to make payment of Rs.50,000/- each to Sardool Singh-injured and Rs.25,000/- to Baljit Kaur-injured within two months from today, as compensation provided under Section 357 of the Cr.P.C.

With the above modification, appeal against judgment of conviction stands dismissed having been withdrawn and without there being any merit. However, appeal accepted qua order of sentence and order of sentence stands modified as above.

(SHEKHER DHAWAN)
JUDGE

19.08.2015
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