

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

**CRA-S No. 2299-SB of 2003
Date of Decision:- 07.10.2015.**

Narinder Kumar and others

....Appellants

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

**Present: Mr. J.S. Brar, Advocate
for appellant No.1-Narinder Kumar.**

**Mr. Bipan Ghai, Senior Advocate
with Mr. Paras Talwar, Advocate
for appellant No.2-Rajinder Kumar.**

**Mr. Varun Sharma, A.A.G., Punjab
for the State.**

**Mr. Naresh Prabhakar, Advocate
for the complainant.**

SHEKHER DHAWAN, J.

Present appeal against judgment of conviction dated 29.11.2003 and order of sentence of even date whereby the appellants were convicted and sentenced for the commission of offences punishable under Sections 307, 323, 324 and 325 read with Section 34 IPC, by Additional Sessions Judge, Fast Track Court, Kapurthala.

2. Relevant facts of the case that complainant Siri Ram reported the matter to the police and dispute was primarily regarding opening of

windows and ventilator and the accused persons objected to that. Civil suit was also pending between the parties. On 10.01.2000, Narinder Kumar was raising construction and the complainant along with his brother Darshan Lal, nephew Rajiv Kumar and one Harish Kumar had gone to the site in dispute to show the stay order to Narinder Kumar accused. At that time, Narinder Kumar was armed with knife, Girdhari Lal (since deceased) armed with iron rod and Rajinder Kumar also armed with knife and started raising '*lalkara*' and abusing the complainant. Narinder Kumar gave knife blow on the left side of the neck of the complainant whereas Girdhari Lal gave iron rod blow on the left shoulder of the complainant. Rajiv Kumar tried to rescue the complainant and Girdhari Lal gave iron rod blow on the right hand little finger and right arm to Rajiv Kumar. Rajinder Kumar also gave one iron rod blow on the right hand of Rajiv Kumar. Narinder Kumar gave knife blow on the right hand of Rajiv Kumar. Narinder Kumar gave knife blow on the left side of Jaw and neck of Rajiv Kumar while Narinder Kumar also gave rod blow on the head of Rajiv Kumar. Complainant and injured raised hue and cry, which attracted residents of the area. Injured were taken to Civil Hospital, Kapurthala for treatment. Accused persons fled away from the spot along with their respective weapons. Investigation proceedings were completed.

3. During trial of the case, learned trial Judge completed the various proceedings of the trial including framing of charge, recording of statement of prosecution witnesses, examination of accused under Section 313 Cr.P.C., recording of defence evidence and after appreciating the prosecution version and defence version held the appellants-accused guilty

and convicted and sentenced them. Hence, the present appeal before this Court.

4. Learned counsel for the appellants as well as learned counsel representing complainant Siri Ram mainly submitted that after recording of conviction and order of sentence the parties have mutually settled their claims in the present litigation as well as connected civil litigation also. Now, they have decided to live peacefully as both the parties are residents of the same locality. Learned counsel for both the parties submitted that a lenient view on the point of sentence be taken. Learned counsel for the appellants also submitted that as per custody certificates, appellant Narinder Kumar has already undergone actual sentence of 1 year, 3 months and 24 days, whereas appellant Rajinder Kumar has already undergone actual sentence of 8 months and 6 days, whereas appellant Girdhari Lal has died during pendency of the appeal proceedings. His death certificate has already been placed on file. The factum of death of Girdhari Lal is not disputed by either side.

5. As in this case, the judgment of conviction dated 29.11.2003 was recorded by learned trial Judge on the basis of statements of injured and eye witnesses, which are supported by medical evidence. There are no grounds to interfere with the judgment of conviction and appeal against judgment of conviction is without any merit. Learned counsel for the appellants also submitted that they do not challenge the judgment of conviction at this stage. Hence, the appeal against judgment of conviction recorded against all the appellants, vide judgment dated 29.11.2003 stands affirmed and appeal against conviction stands dismissed.

6. However, as regards to appeal against order of sentence, learned counsel for the appellants submitted that both the appellants have undergone substantial period of sentence i.e. 1 year, 3 months and 24 days in case of Narinder Kumar and 8 months and 6 days in case of Rajinder Kumar and the fact that the parties have amicably settled their disputes and they should be given an opportunity to live their remaining life peacefully, as they are residents of the same locality. No purpose shall be served by continuing with the proceedings and ordering the appellants to go back behind the bar and complicate the matter further.

7. Identical matter was before Hon'ble Supreme Court in case **Karamjit Singh Vs. State (Delhi Admn.), 2000(3) RCR (Criminal) 561**, wherein Hon'ble Supreme Court has held as under: -

“Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as useful social being. In determining the question of proper punishment in a criminal case, the Court has to weigh the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is, what is needed in such a case; a balance between the interest of the individual and the concern of the society; weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.

8. Identical view was taken by Co-ordinate Benches of this Court in cases Bishna Ram etc. Vs. State of Haryana, 2006(3) R.C.R. (Criminal) 772 and Bakhtawar Singh and others Vs. State of Haryana, 2015(2) R.C.R. (Criminal) 617. In Bakhtawar Singh's case (supra) the appellants accused had just undergone actual sentence of 15 days for the commission of offence under Section 307 IPC and the Co-ordinate Bench formed the opinion that the parties shall settle their claims in long pending litigation of 15 years and an opportunity should be given to the parties to live peacefully and the facts of the case are somewhat favourable to the appellants as both the appellants, namely, Narinder Kumar and Rajinder Kumar have already undergone 1 year, 3 months and 24 days and 8 months and 6 days of actual sentence respectively and they are facing protracted litigation of more than 15 years by now. Appellant Girdhari Lal has already died.

9. In view of above, the present appeal against judgment of conviction stands dismissed whereas appeal against order of sentence dated 29.11.2003 accepted partly and the sentence awarded to both the appellants reduced to the period of sentence already undergone by them in this case.

October 07, 2015
naresh.k

(SHEKHER DHAWAN)
JUDGE