

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-130-SB of 2008 (O&M)

DATE OF DECISION: DECEMBER 9, 2015

GURBAX SINGH & ANOTHER

...APPELLANTS

VERSUS

STATE OF HARYANA & OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL.

1. Whether the judgement should be reported in the digest? No

PRESENT: MR. A.S.SULLAR, ADVOCATE FOR THE APPELLANT.

MR. GAURAV JINDAL, ADDL.A.G., HARYANA.

MR. N.S.SHEKHAWAT, ADVOCATE FOR THE COMPLAINANT.

M. JEYAPPAUL, J.

1. Out of 5 adult accused who faced the trial, accused Gurbax Singh and Bhupinder Singh alone were convicted under Section 323 read with Section 34 IPC, Section 325 read with Section 34 IPC and Section 326 read with Section 34 IPC. They have challenged the judgement of conviction and sentence passed by the trial Court.

2. Learned counsel appearing for the appellants and learned counsel appearing for the complainant submitted referring to the compromise deed (Annexure P-1) that both the parties have amicably settled their dispute and started living peacefully. They have also proposed not to indulge in any criminal activity in future. On the basis of the compromise deed, they also submitted that the conviction recorded by the trial Court may be sustained and the appellants may be sentenced to the period already undergone by them.

3. Inasmuch as the appellants have not canvassed for acquittal and they have pleaded for only reduction in sentence in the aftermath of the compromise struck between the accused and the complainant, the Court does not intend to enter into an elaborated discussion of the evidence adduced by the parties.

4. In Narinder Singh & Ors. vs. State of Punjab and Anr., SLP (Criminal) 9547 of 2013 decided on 27.3.2014, it was held as follows:-

“We have found that in certain cases, the High Courts have accepted the compromise between the parties when the matter in appeal was pending before the High Court against the conviction recorded by the trial Court. Obviously, such cases are those where the accused persons have been found guilty by the trial court, which means the serious charge of Section 307 IPC has been proved beyond reasonable doubt at the level of the trial Court. There would not be any question of accepting compromise and acquitting the accused persons simply because the private parties have buried the hatchet.”

5. In the light of the above ratio, it is submitted by learned counsel appearing for the State that the question of accepting compromise and recording acquittal of the accused for the charge under Section 307 IPC does not arise.

6. The above decision of the Hon'ble Supreme Court indicates that compromise entered into between the accused and the appellant as regards a serious charge under Section 307 IPC cannot be accepted for acquitting the

accused. But in the instant case, the accused-appellants have not sought for acquittal of the charge. Even otherwise, it is not a case where the accused-appellants were convicted under Section 307 IPC. At any rate, the Court has proposed to consider in the interest of justice whether the sentence can be reduced to the period already undergone in the light of the compromise struck between the parties by burying the hatchet. Therefore, in the above facts and circumstances, the above ratio laid down by the Hon'ble Supreme Court does not apply to the case in hand.

6. The eye witness account and the medical testimony would go to show establish that accused Gurbax Singh who was armed with gandasa caused a grievous injury on the forearm of Mahinder Singh and accused Bhupinder Singh who was armed with datar delivered a blow on the right knee of Mahinder Singh and caused grievous injury.

8. Considering the nature of injuries sustained by Mahinder Singh, it is submitted that the sentence may be reduced to the period already undergone by them.

9. I find that there is much force in the submission made by learned counsel appearing for the appellants. The appellants have made out a case for substantial reduction in sentence on account of two factors. Firstly, the injury had been caused on non-vital parts. Secondly, a long standing dispute had been resolved between the parties and they have started living peacefully.

10. Accused Gurbax Singh has undergone 2 months and 19 days and accused Bhupinder Singh has undergone 5 months and 28 days of

sentence. In view of the above, the conviction recorded as against the accused-appellants under Section 323 read with Section 34 IPC, Section 325 read with Section 34 IPC and Section 326 read with Section 34 IPC stands confirmed. But the sentence imposed for the aforesaid offence is reduced to the period already undergone by the accused-appellants. The fine amount and the default sentence imposed by the trial Court stand sustained. One month period is given to the appellants to pay the fine imposed by the trial Court. In default of payment of fine thereof, they shall undergo the default sentence.

11. Accordingly, the appeal stands disposed of.

December 9, 2015
Gulati

(M. JEYAPPAUL)
JUDGE