

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

**(1) CRA S-1430-SB of 2004
Decided on:- 14.12.2015**

KARNAIL SINGH AND ANR.Appellants
Versus
STATE OF HARYANARespondent

(2) CRA S-1481-SB of 2004

LACHHMAN AND ORS.Appellants
Versus
STATE OF HARYANARespondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. S.S. Dinarpur, Advocate,
for the appellants.

Mr. Yashwinder Singh, AAG, Haryana.

JITENDRA CHAUHAN.J.

This judgment shall dispose of afore-mentioned two appeals bearing CRA S-1430-SB of 2004 titled as “Karnail Singh and another vs. State of Haryana” and CRA S-1481-SB of 2004 titled as “Lachhman and others vs. State of Haryana” as both the appeals have arisen out of common judgment of conviction dated 15.07.2004 and the order of sentence dated 16.07.2004, passed by Additional Sessions

Judge (Adhoc), Fast Track Court, Kurukhsetra vide which the accused were convicted and sentence as under:-

Offence	Sentence	Fine	In default
326/149 IPC	R.I. for 5 years	Rs.25,00/-	RI for 3 months
506/149 IPC	R.I. for 6 months	Rs.500/-	RI for 15 days

Both the sentences were ordered to run concurrently.

The brief facts of the case as noticed in the judgment passed by the trial Court are as under :-

“On 17.08.2002, the complainant Sumer Chand son of Shiv Ram, resident of village Hathira, got his statement recorded to the police of Police Station Kurukshetra University, Kurukshetra to the effect that he is an agriculturist. He was having a grudge with Lachhman etc. as he and his associates had caused injuries to him. However, the matter was compromised in the Panchayat. Thereafter, Rajinder met with an accident and he had accused them for which they were challaned and on account of the above circumstances, Lachhman Singh etc. were having grudge against them. On 15.08.2002, Devinder Kumar,

his nephew had gone to call his servant Jasmet at about 6 or 6.30 p.m. While he had himself gone to call his servant Naresh. After calling his servant, his nephew Devinder was returning to his house and at that time he was followed by the accused Rajinder and Suresh on a motor-cycle. When Devinder was at a little distance from the house of Lachhman, accused Rajinder and Suresh exhorted that Devinder has come and should not go scot free and in the meantime, Lachhman armed with Gandasi, Gurmel armed with Bhala, Bhartha, Karnail and Pala armed with lathis came there and started beating Devinder and in order to save himself Devinder started running after leaving the motor-cycle there but from the opposite side Rajinder and Suresh encircled him and started giving beatings to him. When he raised hue and cry then Resham Singh son of Singh Ram, resident of village Tigri Khalsa and one Kesar Pal son of Lachmi Chand were attracted to the spot and upon which all the assailants fled away from the spot alongwith their respective weapons after giving a threat of life. Thereafter, Devinder Singh was shifted to Lok Nayak Jai

Parkash Hospital, Kurukshetra by him and Kesar Pal and from there he was referred to PGI Chadigarh. On the basis of this statement, a case under Section 323, 324, 341, 506 read with Section 148 and 149 was registered. During investigation after collecting the bed-head ticket from PGI, Section 326 of the Indian Penal Code was added. Statements of witnesses were recorded. Accused Lachhman, Rajinder, Karnail, Bhartha and Suresh were apprehended on 26.08.2002 whereas accused Gurmail and Pala were apprehended on 09.09.2002 and 16.09.2002 respectively. On completion of investigation, the police presented report under Section 173 Cr.P.C for trial of the accused persons by adding charge under Section 307 IPC.”

Charges under Sections 307, 323, 324, 326, 341, 506 and 148 read with Section 149 IPC were framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined the following witnesses:-

PW-1, SI Surinder Singh had prepared report under

Section 173 Cr.P.C.

PW-2, HC Mukesh Kumar prepared scaled site plan 12.11.2002, Ex. P.A on the demarcation of Sumer Chand and Devinder correctly and the margins were in his hand.

PW-4, Dr. Vivek Aggarwal proved the injuries sustained by Devinder Kumar. He proved the copy of MLR Ex. P.C and medico-legal report Ex. PC/1.

PW-8, Dr. Aditya Aggarwal has stated that on 15.08.2002, Devinder Kumar was admitted in PGI. The patient received head injury with seventh nerve palsy with fracture radius left side with fracture both bone leg right side with fracture metacarpal 5th head left side with fracture left frontal bone.

The statements of the accused were recorded under Section 313 Cr.P.C and all the incriminating circumstances appearing in the prosecution evidence were put to the accused. The accused denied the same and pleaded false implication.

No evidence in defence was led.

After appraisal of evidence, the learned trial Court, vide the impugned judgment and order, convicted the accused under

Sections 326 and 506 read with Section 149 IPC. However, the accused were acquitted of offence under Section 307 IPC.

Feeling dissatisfied with the impugned judgment of conviction and the order of sentence, the present appeals have been preferred.

It is contended that the appellants Suresh Kumar and Rajinder Singh did not participate in the occurrence. They have been falsely implicated in the present case and only a lalkara (incitement) has been attributed to them. It is further asserted that keeping in view the different role ascribed to the appellants, it cannot be said that the appellants had committed the offence in furtherance of their common object.

On the other hand, the learned State Counsel supports the judgment and the order passed by the trial Court.

I have heard learned counsel for the parties and gone through the record of the case.

During the pendency of present appeal, the accused-appellant Lachhman died. So, the appeal filed on his behalf stands abated.

The testimony of PW-9, Sumer Chand with regard to the occurrence is very specific and categorical. He has given a detailed narration of the incident and the injuries caused to Davinder. He has specifically stated that his nephew, Rajinder met with an accident and on the complaint lodged by him, the accused appellants had been charge-sheeted. Therefore, they had grudge against him. He has further given detail that on 15.8.2002 at 6.00/6.30 pm, his nephew, Devinder had gone to call his servant Jasmet whereas, he himself had gone to call his servant Naresh. After calling his servant, while his nephew Devinder was returning to his house, he was followed by the accused appellants Rajinder and Suresh on a motor cycle. Rajinder and Suresh incited their co-accused and Lachhman Singh was armed with gandasi, Gurmej was armed with spear, Bhartha, Pala and Karnail gave beating to Devinder with lathis. In order to save himself, Devinder started running away from the spot leaving his motor cycle there but he was encircled by the accused Rajender and Suresh, who also administered beating to him. On raising alarm by the injured, Resham Singh son of Singh Ram, resident of village Tigri Khalsa and one Kesar Pal son of Lachmi Chand came to the spot upon which all the assailants fled away

from the spot. This version of causing injuries is fully fortified by the report of Dr. Aditya Aggarwal, who was examined as PW-8.

The statement made by the complainant, Sumer Chand, PW-9 finds complete corroboration with the statement of the injured Devinder, who appeared as PW-7. PW-8, Dr. Aditya Aggarwal proved the fracture sustained by the injured, Devinder on his right leg. He further stated that the plaster was applied on the left forearm and the patient remained under his treatment in the PGI.

Keeping in view the specific role which finds full corroboration from the statements of injured, Devinder and the testimony of Dr. Aditya Aggarwal, the case against the appellants is fully established as there is specificity of name, injury attributed to the accused and the weapon used in the crime. The weapons of offence i.e. Lathis, spear and gandasi were got recovered by the appellants as has come in the testimony of PW-10, Investigating Officer, ASI Ved Parkash. Therefore, the case of the prosecution is fully established against the accused. Consequently, the conviction of the appellants stands upheld.

Now adverting to the quantum of sentence, learned

counsel for the appellants states that the accused have faced the agony of protracted trial since 2002. Out of their total sentence, the accused Karnail Singh has undergone sentence of one year, four months and twenty six days, whereas, the accused Gurmukh Singh has undergone one year, six months, likewise, Rajinder Singh has undergone two years, Suresh has undergone one year and four months, Bhartha has undergone eleven months and Pala has undergone eleven months. He further submits that the main injury on the head was caused by accused Lachhman who has since died. The role of the remaining accused is not as serious as that of Lachhman so, he prays that keeping in view all these circumstances, the sentence of the accused may be reduced to some reasonable extent.

It is proved on the record that accused Rajinder Singh and Suresh incited the other accused that the injured Devinder should not go scot-free whereas, the accused Karnail Singh, Pala Ram and Bhartha were armed with lathis. The injury on right leg was caused by Gurmej Singh. The head injury was caused by accused Lachhman who has since died.

The long protracted trial is one of the mitigating

circumstances in favour of the accused. Keeping in view the same, this Court is of the opinion that the ends of justice would be sufficiently met in case the sentence of the appellants is reduced to the period already undergone by them however, subject to payment of Rs.50,000/- by accused Gurmej Singh and Rs. 20,000 by each of the remaining accused to the injured Devinder as compensation.

Ordered accordingly.

The amount of compensation be paid within four months from today. In case, the amount of compensation is not paid within the stipulated period, the appeal would be deemed to be dismissed without any further orders.

14.12.2015.
SN

(JITENDRA CHAUHAN)
JUDGE