

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

CRA-S No.2479-SB of 2004

Date of decision: 18th November, 2015

Gurnam Singh and others

... Appellants

Versus

UT Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Kanwaljit Singh, Senior Advocate with
Mr. B.B.S. Randhawa, Advocate
for the appellants.

Mr. Anil K. Lamdharia, Addl. PP, UT Chandigarh
for the respondent.

FATEH DEEP SINGH, J.

The appellants namely Gurnam Singh, Sukhwinder Singh and Nirbhai Singh along with their co-accused namely Kuldeep Singh, Balbir Singh, Sher Singh and Ranjit Singh, were tried by the Court of learned Additional Sessions Judge, Chandigarh and through impugned judgment dated 03.11.2004 accused Sher Singh, Ranjit Singh, Balbir Singh and Kuldeep Singh stood acquitted of the charges whereas the present appellants Gurnam Singh, Sukhwinder Singh and

Nirbhai Singh were convicted for offences punishable under Sections 147/323/325/506 IPC whereby they were sentenced as under:

Under Section 147 IPC	To undergo RI for 2 years and to pay a fine of ₹1,000 each, in default of payment of fine to further undergo RI for 3 months.
Under Section 325 IPC	To undergo RI for 3 years and to pay a fine of ₹2,000 each, in default of payment of fine to further undergo RI for 3 months.
Under Section 323 IPC	To undergo RI for 6 months and to pay a fine of ₹500 each, in default of payment of fine to further undergo RI for 2 months.
Under Section 506 IPC	To undergo RI for 1 year and to pay a fine of ₹500 each, in default of payment of fine to further undergo RI for 2 months.

The same has been assailed before this Court in this appeal.

Heard Mr. Kanwaljit Singh, Senior Advocate assisted by Mr. B.B.S. Randhawa, Advocate on behalf of the appellants; Mr. Anil Kumar Lamdharia, Addl. PP, UT Chandigarh representing the respondent and perused the records.

The allegations that have come forth from the prosecution side are that labour class had raised hutments numbering about 350 near Gurudwara Guru Sagar Sahib Colony, Chandigarh and each of them used to pay Gurnam Singh Sidhu accused rent at the rate of ₹150 per month, as a consequence of which a meeting was held between the two sides, where some altercation had taken place between the two groups. It is alleged that on 12.02.1999 around 6.00

p.m. when all the occupants of these huts were present in their respective dwellings, accused Gurnam Singh and his son Sukhwinder Singh along with their supporters armed with cudgels and sticks started assaulting the occupants of these hutments out of which two huts were put to fire and almost 18/20 persons received injuries leading to registration of the present case by way of FIR No.14 dated 12.02.1999 under Sections 147/149/323/325/506/436 IPC at Police Station Sector 3, Chandigarh on the statement of complainant Som Nath.

Upon completion of investigations and at the trial PW-6 Suman and PW-24 Parwati did not support the prosecution story whereas other witnesses PW1 Som Nath complainant; PW2 Ajay Pal Singh; PW3 Shanti; PW4 Jageshwar; PW7 Radha Shyam; PW8 Sushila; PW9 Dalip Parshad; PW10 Mool Chand; PW11 Ram Naresh; PW15 Shiv Narain; PW16 Jagan Nath; PW17 Fateh Bahadur; PW18 Ram Parshad; PW23 Bimla Devi; PW26 Ram Lal; PW27 Nater Bahadur; PW28 Om Parkash; PW29 Ram Manorath; PW30 Malti Devi and PW34 Ram Kali supported the allegations of the prosecution. The defence examined 9 witnesses leading to passing of the judgment of conviction.

Mr. Kanwaljit Singh, Senior Advocate assisted by Mr.B.B.S. Randhawa, Advocate representing the appellants have prayed for showing leniency harping on the fact that the accused have been facing rigor of trial for almost 15 years and that the learned trial Court has failed to sufficiently consider the grant of benefit of

probation in terms of 360 Cr.P.C. and that only simple injuries on non-vital parts of the body have been proved which has led to their conviction under Sections 323 and 325 IPC.

The prayer of the appellants side thought is sought to be opposed by the learned State counsel, however, having regard to the fact that the complainant side as well as appellants side are residents of the same village having definite proven relationship of landlord and tenants and if the appellants are sent to custody will sow the seeds of enmity and hatred which will lead to more vengeance, and it would sub-serve the ends of justice that amity prevails between the two groups for the future times and to come together with the fact that appellants have undergone trauma of trial and conviction for a period of almost 15 years and thus suffered enormously and are not, as per own admission of the learned State counsel, having any history of previous conviction and are respectable citizens, married, rearing their own families and thus, considering the provisions of Section 360 Cr.P.C. to advance the cause of justice, the appellants are allowed concession of probation in terms of Section 4 of the Probation of Offenders Act, 1958 for a period of one year on their entering into a bond in the sum of ₹25,000 each with one surety of the like amount to the satisfaction of the trial Court undertaking therein that they shall keep peace and maintain good behaviour and in case of default shall appear and receive remaining sentence as and when called upon to do so during the said period.

The appeal stands disposed off with these modifications.

Records be sent back.

(FATEH DEEP SINGH)
JUDGE

November 18, 2015
rps