

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

CRA No.D-571-DB of 2015
Date of decision : 29.05.2015

Ranjit Singh @ Rana

..... Appellant

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Jasmeet Ghumman, Advocate
for the appellant.

RAMENDRA JAIN, J.

By this judgment, we shall dispose of the present appeal filed by complainant Ranjit Singh @ Rana against acquittal of respondents No.2 to 4 for the offence under Section 307, Indian Penal Code ('IPC' for short) and further to convict them for the said offence under Section 307 IPC as well by setting aside the judgment and order of sentence dated 29.11.2014 passed by learned Additional Sessions Judge, Jalandhar to the said extent that they have been acquitted for the offence under Section 307, IPC. Respondents No.2 to 4 were tried in Sessions Case No.29616 of 2013 bearing FIR

No.76 dated 08.05.2008 under Sections 307, 326, 452, 324, 323, 341, 427, 506, 148, 149 IPC, Police Station Nur Mahal. They have been convicted and sentenced in the following manner :-

Convict	Under Sections	Sentence awarded
Sukhwinder Singh (Respondent No.4)	308 IPC	To undergo rigorous imprisonment for three years and pay a fine of Rs.2000/- and in default thereof, undergo further rigorous imprisonment for six months.
	326/34 IPC,	To undergo rigorous imprisonment for three years and pay a fine of Rs.2000/- and in default thereof, undergo further rigorous imprisonment for six months.
	324/34 IPC,	To undergo rigorous imprisonment for one year and pay a fine of Rs.1000/- and in default thereof, undergo further rigorous imprisonment for two months.
	341 IPC	To undergo simple imprisonment for one month and pay a fine of Rs.500/- and in default thereof, undergo further simple imprisonment for seven days.
	427 IPC	To undergo rigorous imprisonment for one year and pay a fine of Rs.1000/- and in default thereof, undergo further rigorous imprisonment for two months.
	506 IPC	To undergo rigorous imprisonment for six months and pay a fine of Rs. 500/- and in default thereof, undergo further rigorous imprisonment for one month.

Jiwan Dass (Respondent No.2)	308/34 IPC	To undergo rigorous imprisonment for three years and pay a fine of Rs.2000/- and in default thereof, undergo further rigorous imprisonment for six months.
	326 IPC,	To undergo rigorous imprisonment for three years and pay a fine of Rs.2000/- and in default thereof, undergo further rigorous imprisonment for six months.
	324/34 IPC,	To undergo rigorous imprisonment for one year and pay a fine of Rs.1000/- and in default thereof, undergo further rigorous imprisonment for two months.
	341 IPC	To undergo simple imprisonment for one month and pay a fine of Rs.500/- and in default thereof, undergo further simple imprisonment for seven days.
	427 IPC	To undergo rigorous imprisonment for one year and to pay a fine of Rs.1000/- and in default thereof, to undergo further rigorous imprisonment for two months.
	506 IPC	To undergo rigorous imprisonment for six months and pay a fine of Rs.500/- and in default thereof, undergo further rigorous imprisonment for one month.
Balihar Singh (Respondent No.3)	308/34 IPC	To undergo rigorous imprisonment for three years and pay a fine of Rs.2000/- and in default thereof, undergo further rigorous imprisonment for six months.
	326/34 IPC,	To undergo rigorous imprisonment for three years and pay a fine of Rs.2000/- and in default thereof, undergo further rigorous imprisonment for six months.

324 IPC,	To undergo rigorous imprisonment for one year and pay a fine of Rs.1000/- and in default thereof, undergo further rigorous imprisonment for two months.
341 IPC	To undergo simple imprisonment for one month and pay a fine of Rs.500/- and in default thereof, undergo further simple imprisonment for seven days.
427 IPC	To undergo rigorous imprisonment for one year and pay a fine of Rs.1000/- and in default thereof, undergo further rigorous imprisonment for two months.
506 IPC	To undergo rigorous imprisonment for six months and pay a fine of Rs.500/- and in default thereof, undergo further rigorous imprisonment for one month.

It was further ordered that all the substantive sentences shall run concurrently.

Along with the appeal criminal misc. No.12158 of 2015 has been filed seeking condonation of 52 days delay in filing the appeal.

Brief facts of the case, relevant for decision of this appeal are that on 07.05.2008, on receipt of Ruqa along with MLR Ex.PQ at Police Station Nur Mahal, regarding admission of injured Ranjit Singh @ Rana son of Jhalman Singh resident of Patti Chhokra, Village Pasla (appellant) in Civil Hospital, Bundala, SI Om Parkash along with other police officials reached there. An application Ex.PF was submitted before

Medical Officer regarding fitness of injured Ranjit Singh @ Rana (appellant) to make a statement. However, the Medical Officer vide his endorsement Ex.PB, declared him unfit to make a statement. Thereafter, on the next day i.e. 08.05.2008, SI Om Parkash along with other police officials again visited the said hospital to record the statement of injured Ranjit Singh @ Rana (appellant). An application Ex.PD was submitted seeking opinion of the doctor regarding fitness of the injured. The Medical Officer vide his opinion Ex.PE, declared him fit to make a statement. Accordingly, statement Ex.PA of the injured Ranjit Singh @ Rana was recorded to the effect that he was an agriculturist by profession. On 06.05.2008, he and Surjit Lal had gone to village Pasla in their Maruti car in connection with elections and were returning to their house. He was driving the car. Around 10.30 pm, when they reached near bridge of the canal at some distance from village Pasla and tried to cross a stationary Scorpio vehicle, accused-Sukhwinder Singh and Balihar Singh (respondent No.4 and 3) armed with swords; Sarwan Singh empty handed and Jiwan Dass (respondent No.2) armed with a 'sickle', residents of village Pasla accompanied by two more unknown persons armed with 'dadar', alighted from their vehicle and assaulted him with an intention to kill him. Sarwan Singh raised a lalkara to teach a lesson to him for canvassing in the elections against them. Sukhwinder Singh (respondent No.4) gave a 'sword' blow on his head followed by two blows with 'sickle' by Jiwan Dass (respondent No.2) on his

right arm. Balihar Singh (respondent No.3) gave a 'sword' blow on his left arm and the unknown persons gave blows with their 'dangs' on his back. The assailants smashed the wind screen and window panes of his car. He ran to his house through the fields by raising an alarm. All the assailants chased him and entered his house. However, he could save his life by bolting the door of his room from inside. His younger brother also saved his life from the clutches of the accused, otherwise they would have killed them. The assailants kept on knocking at the door and abusing them. After causing damage to the gate, all the assailants fled away. SI Om Parkash, made his endorsement Ex.PA/1 on the same, the statement was sent to the police station for registration of a case, whereupon formal FIR Ex.PG was registered. Rough site plan of the place of occurrence Ex.PH was prepared. Car was taken in possession vide recovery memo Ex.PJ.

On 09.05.2008, on receipt of medical report, offence Section 326 IPC was added by making a DDR entry Ex.PK. Supplementary statement of complainant-Ranjit Singh @ Rana was recorded. On 12.07.2008, accused Balihar Singh (respondent No.3) joined the investigation. On 27.09.2008, accused Jiwan Dass (respondent No.2) was arrested. On 17.10.2008, accused Sarwan Singh joined the investigation and was released on bail, in pursuance of order of the learned Additional Sessions Judge, Jalandhar. Statements of the relevant witnesses were recorded. After completion of

investigation, police report under Sections 307, 326, 452, 324, 323, 341, 427, 506, 148, 149 IPC was filed in the Court against the accused (respondents No.2 to 4).

Copies of challan as envisaged by Section 207 of the Code of Criminal Procedure ('Cr.P.C' for short) were supplied to the accused under their signatures/thumb impressions. Since, the offences were exclusively triable by the Court of Sessions, therefore, the case was committed to the Court of Sessions by the learned Ilqa Magistrate vide order dated 26.11.2008.

The learned trial Court, after hearing both the sides and perusing the police report under Section 173 Cr.P.C. framed charges against the accused under Sections 307, 326, 324, 341, 427, 506 read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

Thereafter, the prosecution in support of its case examined as many as 9 witnesses i.e. PW1 complainant Ranjit Singh @ Rana, PW2 eye-witness Surjit Lal, PW3 Dr. Satinder Kaur, Medical Officer, PW3/A Dr. Bharat Bhushan Sethi, PW4 Surinder Kaur, Radiographer, PW4/A Dr. Sukhwinder Pal Singh, PW5 HC Kuldeep Kumar, PW6 Inspector Om Parkash, Investigating Officer, PW7 ASI Kulwant Singh, PW8 Dr. Anil Manchanda, Medical Officer, PW9 Parveen Kumar, photographer and relied upon certain documents i.e. complaint Ex.PA, endorsement Ex.PA/1 of SI Om Parkash thereon, endorsement Ex.PB of the Medical Officer, upon application Ex.PF moved by

SI Om Parkash before him regarding fitness of the complainant, application moved by police Ex.PD, opinion Ex.PE of doctor declaring the injured Ranjit Singh fit to make a statement, application moved by SI Om Parkash before PW-3 Dr. Satinder Kaur, regarding fitness of injured Ranjit Singh @ Rana Ex.PF, FIR Ex.PG, rough site plan of the place of occurrence Ex.PH, recovery memo of the vehicle Ex.PJ, Copy of DDR Ex.PK, personal/surety bonds of accused Balihar Singh Ex.PL and PM, arrest memo of accused Jiwan Ex.PN, his personal search vide memo Ex.PO, photographs produced by PW-9 Parveen Kumar Ex.PP, MLR Ex.PQ, pictorial diagram Ex.PR, Ruqa Ex.PS, X-ray report Ex.PT, medical report Ex.PU and photographs Ex.P1 to P7.

After closure of the prosecution evidence, the statements of accused (respondent No.2 to 4) under Section 313 Cr.P.C. were recorded putting the entire incriminating evidence brought on record against them by the prosecution, which they denied and pleaded their false implication. In their defence, they examined as many as 9 witnesses i.e. DW1 Kulwinder Singh, DW2 Gurdeep Singh, DW3 Sarabjit Singh Dhingra, Notary Public, DW4 Inspector Harpreet Singh, DW5 Sarpanch Jasbir Singh, DW6 Dalbir Kaur, DW7 Satinder Singh, SSP Vigilance Bureau, Ludhiana, DW8 Rajjit Singh, SSP Tarn Taran, DW9 Inspector Angrez Singh and relied upon certain documents i.e. compromise DW1/A, supplementary challan Ex.DW4/A, report Ex.DW7/A, whereby the accused Sukhjinder

Singh (respondent No.4) was found innocent by DW8 S.S.P. Tarn Taran, report Ex.DW8/A on the report of Inspector Angrez Singh given by DW8 S.S.P. Ranjit Singh, whereby he found accused Jiwan Dass and Sukhwinder Singh (respondent No.4 and 2) to be innocent.

Thereafter, after hearing learned PP and the learned defence counsel, the accused (respondent No.2 to 4) were held guilty and convicted and sentenced by the learned trial Court vide its judgment of conviction and order of sentence dated 29.11.2014 in the manner indicated above.

We have heard learned counsel for both the parties and gone through the case file very carefully.

Learned counsel for the appellant-complainant has argued that the impugned judgment of the learned trial Court is based on surmises and conjectures to the extent that respondents No.2 to 4 have been acquitted for the offence under Section 307, IPC. It has failed to appreciate that the accused had caused injuries to the appellant-complainant with an intention to kill him. There was overwhelming evidence on the record that injuries were caused to complainant by the accused with sharp edged weapons like 'sword', 'dang' and 'sickle' etc. Out of five injuries caused to him, one injury on his head was muscle deep cut wound of 2.5 cm in length. There were no discrepancies in the statements of the prosecution witnesses. The same were flawless. The appellant-complainant

has categorically deposed that all the accused had attacked and caused injuries with an intention to kill him, therefore, there was no scope for the learned trial Court to not convict respondents No.2 to 4 for the offence under Section 307 IPC.

As per the prosecution case, the complainant, after receipt of injuries had got himself admitted in Civil Hospital, Bundala, where Dr. Anil Manchanda PW8, medico-legally examined him and found the following five injuries on his person:

1. Cut wound of 2.5 cm length present over 22 the vertex 2cm away from the saggital suture on the right side. Wound is muscle deep and margins are clean cut, present parallel to mid line. Perfuse bleeding is present. X-ray skull, AP lateral was advised.
2. Cut wound of 5cm length present obliquely over the lateral aspect of right forearm and is bone deep, intendation over the wound is present. Wound margins are clean cut, bleeding present over it. Pain is excessive and movement of fingers and hand was resecticted. Wound is placed 12cm from elbow joint. X-ray right forearm and Ortho opinion was advised.
3. Cut wound of size 3.5 cm placed obliquely and parallel to injury no.2 on the lateral aspect of right forearm 9 cm distance from wrist joint. Injuries

muscle deep and margins are clean cut, bleeding present.

4. Cut wound of 3 cm present over the lateral aspect of the left forearm placed horizontally to the long axis, almost in the middle of forearm. Injury is muscle deep, margins are clean cut, clothes are present in it. Movement of the limb is normal.
5. Two parallel bruises of 14cmX2.5 cm present over the back of the chest at scapular region and other one on the infra scapular region. Skin around it is red and swelling present over it. X-ray chest and LS spine was advised.

Vide MLR Ex.PQ, injuries No.1 to 4 were found to have been caused by sharp edged weapons, whereas injury No.5 was found to have been caused with a blunt weapon. Dr. Anil Manchanda, PW8 declared injuries No.1 and 5 as simple in nature and injury No.2 as grievous vide report Ex.PU.

We have given our thoughtful consideration to the submissions made by the learned counsel for the appellant.

To convict a person under Section 307 IPC, his intention has to be seen as to whether he really did some overt act or caused bodily injury capable of causing death. In the instant case, the accused Sukhwinder Singh (respondent No.4) gave a single sword blow on the head of the complainant. The other accused caused injuries on the non-vital parts of the body

of the complainant. The manner in which the accused caused injuries to the appellant-complainant clearly shows that they had no intention to cause death, because had it been so, Sukwinder Singh (respondent No.4) would have given repeated 'sword' blows on the head of the appellant-complainant or other vital parts of his body. Even, accused Jiwan Dass (respondent No.2) and Balihar Singh (respondent No.3) did not cause any injury on vital parts of the body. All the injuries, except injury No.1 are not on vital parts of the person of the appellant-complainant. Even otherwise, injury No.1 caused by accused Sukhwinder Singh (respondent No.4) to the appellant-complainant was declared simple in nature by PW-8 Dr. Anil Manchanda vide his report Ex.PU. Hence, the same by itself cannot be said to be fatal so as to cause death of the appellant-complainant, more particularly, when none of the injuries suffered by him was declared dangerous to life. Appellant-complainant Ranjit Singh as PW-1 has categorically deposed that the accused had caused him injuries, having grudge of his campaigning against them in elections. The above motive of the accused does not sound to be so strong, from which, it can be interfered that the accused had any intention to kill the appellant-complainant.

For the sake of the repetition, if the respondents No.2 to 4 had any intention to kill the appellant-complainant, they would have caused repeated injuries to him on the vital parts of his person or repeated the sword blows on his head.

The trial Court has rightly opined that the offence under Section 307 IPC was not attracted in the instant case. Injury No.1 on the head of the appellant-complainant has been held to be covered under Section 308 IPC, because a single 'sword' blow by accused Sukhwinder Singh on his head may have caused his death.

In view of above, we find no illegality and perversity in the impugned judgment of conviction and order of sentence of the learned trial Court to the extent that respondents No.2 to 4 have been acquitted for the offence under Section 307 IPC. Hence, finding no merit in the appeal, the same is dismissed summarily in terms of Section 384 Cr.P.C.

Since the appeal has been dismissed on merits, the question regarding delay in filing the appeal, is only academic. Hence, the application seeking condonation of 52 days' delay in filing the appeal is also dismissed. However, it is made clear that nothing stated or observed herein shall be construed as an expression of opinion on the merits of case/appeal that has been filed by the respondents No.2 to 4 against their conviction and sentence for the other offences and the observations made herein are only to the extent that respondents No.2 to 4 have rightly been acquitted for the offence under Section 307 IPC. The appeal of respondents No.2 to 4 against their conviction and sentences for the other offence is to be considered

independently and without being influenced by any observations made herein.

**(RAMENDRA JAIN)
JUDGE**

**(S.S. SARON)
JUDGE**

29.05.2015
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