

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 25.2.2015

CRA No. S-1450-SB of 2003 (O/M)

Ruldu Ram and Harmesh Singh @ Meshi Appellant

Versus

State of Punjab

..... Respondent

CRR No. 1939 of 2003 (O/M)

Jagjit Singh

..... Petitioner

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Narinder Singh, Advocate, for the appellants
in CRA No. S-1450-SB of 2003 and for
respondents No. 2 and 3 in CRR No. 1939 of 2003.
Mr. Ashish Sanghi, Deputy A.G., Punjab.
Mr. Manvinder Singh Sidhu, Advocate,
for the petitioner in CRR No. 1939 of 2003.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH, J. (ORAL)

By this order, I will dispose of CRA No. S-1450-SB of 2003, filed by the accused/appellants Ruldu Ram and Harmesh Singh @ Meshi and CRR No. 1939 of 2003, filed by the complainant Jagjit Singh.

In CRA No. S-1450-SB of 2003, Ruldu Ram and Harmesh Singh @ Meshi have challenged the judgment and order

dated 28.7.2003, passed by the learned Additional Sessions Judge, Fast Track Court, Ferozepur, vide which they were convicted under Sections 324 and 324/34 IPC. Accused/appellant No. 1 Ruldu Ram was sentenced to undergo rigorous imprisonment for 1 ½ years and to pay fine of Rs. 1,500/-, in default thereof, to further undergo rigorous imprisonment for nine months under Section 324 IPC, whereas accused/appellant No. 2 Harmesh Singh @ Meshi was also sentenced to undergo rigorous imprisonment for 1 ½ years and to pay fine of Rs. 1,500/-, in default thereof, to further undergo rigorous imprisonment for nine months under Section 324/34 IPC.

In CRR No. 1939 of 2003, Jagjit Singh (complainant/injured) has filed the present revision, challenging the same judgment and order, stating that the trial Court fell in error by reducing the offence from Section 307 IPC to Section 324 IPC, despite sufficient evidence available on file. It is also stated that the sentence imposed upon the accused/appellants is inadequate and compensation should be awarded to the injured/complainant.

The case was registered on the statement of Jagjit Singh (complainant/injured), who stated that on 23.4.2001, at about 6:30 PM, he alongwith his cousin Sukhdev Singh was standing in the street in front of the door of the house of Sukhdev Singh. Ruldu Ram armed with 12 bore double barrel gun accompanied by his son Harmesh Singh @ Meshi, empty handed, were going through the street, while hurling abuses. Jagjit Singh (complainant/injured)

inquired from them as to whom they were hurling abuses, to which he replied that he is abusing him (complainant/injured). On this, accused/appellant No. 2 Harmesh Singh @ Meshi raised exhortation to shoot Jagjit Singh for helping Baba Gopi Dass. Accused/appellant No. 1 Ruldu Ram fired a shot with his 12 bore double barrel gun with an intention to kill the complainant/injured. The shot hit the left thigh, left hand finger and thumb of the complainant/injured. The complainant fell down. Accused/appellant No. 1 Ruldu Ram fired one more shot. As the complainant raised his right arm, the shot hit the reverse side of the right wrist of the complainant. The complainant/injured raised alarm, on which his brother Rajprit Singh and his cousin Sukhdev Singh, who were standing in the door, came and brought the complainant inside the house. Thereafter, accused/appellant No. 1 Ruldu Ram fired one more shot, which hit the door of the complainant. The complainant and his accomplices raised alarm, on which accused/appellants No. 1 and 2 ran away.

On the statement of the complainant/injured (Ex.P1) to the police, an FIR was registered on 24.4.2001 against the accused under Sections 307/34 IPC and under Sections 25/27 of the Arms Act, 1959. The police prepared site plan (Ex.P8). One blood stained earth was removed from the street and taken into possession through recovery memo Ex.P9. Accused were arrested. Accused/appellant No. 1 Ruldu Ram suffered a disclosure statement (Ex.P11) and got recovered the 12 bore double barrel gun used in

the crime, vide recovery memo Ex.P12.

After the completion of the investigation, the challan was presented in the Court.

Accused were chargesheeted under Section 307 IPC read with Section 34 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined complainant Jagjit Singh (PW1), eye-witness Sukhdev Singh (PW2), Constable Buta Singh (PW3), Manohar Lal (PW4), ASI Bhajan Singh (PW5), Constable Mangal Singh (PW6), HC Surinder Singh (PW7), Dr. Jaswant Singh (PW8), Partap Singh (PW9) and closed the evidence.

When examined under Section 313 Cr.P.C., accused/appellant No. 1 Ruldu Ram pleaded as under :-

“I alongwith my son Sat Pal had gone to cultivate the disputed land with tractor of Jagjit Singh and my tractor. The possession of this land was delivered to us on 10.11.2000 by the order of Deputy Commissioner, Ferozepur with the assistance of Police. The tractor of Jagjit Singh was set ablaze there by Gaushala's people about which, Jagjit Singh and others came to know. When we were returning from the fields to our house, then Jagjit Singh, Rajbir Singh and Rajprit Singh have laid us and caused injuries to Satpal my son. To save my son, I brought my gun and shot fire in self defence. I am innocent.”

Accused/appellant No. 2 Harmesh Singh @ Meshi pleaded that he has been falsely implicated.

In defence, accused produced copy of jamabandi and closed the defence evidence.

After hearing the learned Additional Public Prosecutor for the State, learned defence counsel and going through the evidence, the learned Additional Sessions Judge, Fast Track Court, Ferozepur, convicted and sentenced the accused, as aforesaid.

I have heard the learned counsel for the accused/appellants, learned Deputy Advocate General for the State, learned counsel for the revisionist and have also carefully gone through the file.

In this case, the allegations are that on the exhortation being raised by accused/appellant No. 2 Harmesh Singh @ Meshi, accused/appellant No. 1 Ruldu Ram fired two shots on complainant/injured Jagjit Singh. The third shot was fired at the door of the complainant. The statement of the doctor will help to draw the conclusion about the nature of injuries. Dr. Jaswant Singh (PW8) stated that on 23.4.2001, at about 9:45 PM, he had examined Jagjit Singh (injured) son of Mall Singh, aged 40 years and found following injuries on his person :-

“1. Multiple lacerated penetrating wounds numbering 25 in number varying in size from 0.5 cm x 0.5 cm to 1.2 cm x 0.7 cm on the upper 3/4th of right thigh, on its anterior lateral aspect. Wound bleed to touch. No tattooing or charring present around any of the wound. X-ray was advised.

2. Lacerated penetrating wound circular in shape, three in number one on outer side of lower part of right forearm 9 cm. above twist joint (wrist joint), two in the anterior side of forearm, 3 cm. above the right wrist joint, each measuring 0.5 cm 0.5 cm in size. No tattooing or charring was present around the wounds. X-ray was advised.

(3) Lacerated penetrating wounds circular in shape present on outer side of dorsum of right hand 3 cm above base of right thumb. No tattooing or charring was present around the wound. X-ray was advised.

(4) Lacerated penetrating circular wound 0.5 cm x 0.5 cm present on base of right index finger on dorsum of right hand. X-ray was advised.”

All the injuries were result of firearm weapon.

The trial Court concluded that these injuries are not on the vital parts. Therefore, for this reason, the accused were convicted for the offence punishable under Section 324 IPC, in place of offence punishable under Section 307 IPC. It was observed by the trial Court as under :-

“21. Thought it is claimed that accused Ruldu Ram fired three shots but from a perusal of site plans Exhibit P2 and Exhibit P8 and injuries on the person of complainant, it appears that only one shot was fired by the accused pellets of which hit the doors of the house of Sukhdev Singh besides causing injuries to complainant Jagjit Singh. Absence of recovery of any empty cartridge from the spot which fact has been admitted by PW5 ASI Bhajan Singh further confirms the fact of firing of one

shot as otherwise on re-loading of the weapon empty cartridge was bound to fall on the spot. Evidently intention to cause death is not proved. So accused Ruldu Ram is found to be guilty of offence punishable under Section 324 of the Indian Penal Code instead of offence punishable under Section 307 of the Indian Penal Code whereas Harmesh Singh is found to be guilty under Section 324 read with Section 34 IPC.”

I am of the view that the view taken by the learned Additional Sessions Judge, Fast Track Court, Ferozepur, is perverse and against the facts and circumstances. Even if it is concluded that only one shot was fired on the complainant/injured, the fact remains that another fire was shot at the door of the complainant/injured. The seat of injuries shows that the pellets hit the right thigh on the upper 3/4th portion of the complainant/injured. The other injuries are on the wrist of right hand. However, it is not disputed that there are vital private organs adjoining the thigh and above the thigh is abdomen, which is also a vital organ. Accused/appellant No. 1 Ruldu Ram was not a sharp shooter that he wanted to hit only the right thigh of the complainant/injured and succeeded in doing so. He just fired a shot, which hit the right thigh of the complainant/injured and his right hand. Intention to kill has to be gathered from the circumstances. Even after injuring Jagjit Singh (complainant), accused/appellant No. 1 Ruldu Ram was not pacified and even fired one more shot at the door of the complainant. Therefore, I am of the view that the trial Court fell in grave error by

converting the offence from Section 307 IPC to Section 324 IPC. I am of the considered opinion that from the nature of injuries, Section 307 IPC is to be made out.

Learned counsel for the accused/appellants has argued that in this case, Jagjit Singh (complainant) and his cousin Sukhdev Singh (eye-witness) had supported the prosecution case, as stated above. However, only *lalkara* (exhortation) has been attributed to accused/appellant No. 2 Harmesh Singh @ Meshi. Therefore, he has been falsely implicated being son of accused/appellant No. 1 Ruldu Ram.

I am of the view that in this case, the occurrence took place on 23.4.2001, at about 6:30 PM. The FIR was registered on the next day at 12:10 PM. Therefore, the possibility is that the complainant party used this time to rope in young son of the accused/appellant No. 1 Ruldu Ram, who happens to be an old man. Therefore, when accused/appellant No. 2 Harmesh Singh @ Meshi was empty handed and only *lalkara* is attributed to him, it is safe to grant benefit of doubt to him. Accordingly, accused/appellant No. 2 Harmesh Singh @ Meshi is liable to be acquitted.

So far as role of accused/appellant No. 1 Ruldu Ram is concerned, it has been proved beyond all reasonable doubt by the statement of complainant/injured Jagjit Singh and supported by the statement of eye-witness Sukhdev Singh and further fully supported by the statements of the doctor and investigating officer.

Learned counsel for the accused/appellants has pleaded for leniency qua accused/appellant No. 1 Ruldu Ram on the ground that the time of pronouncement of the judgment by the trial Court in the year 2003, accused/appellant No. 1 Ruldu Ram was 65/66 years of age and now, after more than 11½ years, he must be aged about 76/77 years.

After taking into consideration the facts and circumstances, CRA No. S-1450-SB of 2003 is partly allowed and CRR No. 1939 of 2003 is also partly allowed. CRA No. S-1450-SB of 2003 qua accused/appellant No. 2 Harmesh Singh @ Meshi is allowed and he stands acquitted of the charges framed against him, whereas accused/appellant No. 1 Ruldu Ram stands convicted under Section 307 IPC. Taking into consideration his age, facts and circumstances of the case, accused/appellant No. 1 Ruldu Ram is sentenced to undergo rigorous imprisonment for three years and to pay fine of Rs. 1,500/-, in default thereof, to further undergo rigorous imprisonment for nine months. Accused/appellant No. 1 Ruldu Ram is stated to be on bail. He be arrested immediately and committed to jail to undergo the remaining part of the sentence.

Consequently, CRA No. S-1450-SB of 2003 and CRR No. 1939 of 2003 stand partly allowed.

(KULDIP SINGH)
JUDGE

25.2.2015
sjks