

In the High Court of Punjab and Haryana at Chandigarh

Crl. Appeal No. S-2132-SB of 2003

Date of Decision: 21.1.2015

Shamsher Singh and another

.....Appellants

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. P.S.Brar, Advocate
for appellant No. 2.

Mr. Deep Singh, AAG, Punjab.

SABINA, J.

Appellants along with their co-accused had faced the trial qua commission of offence punishable under Section 307, 324, 323, 34 of the Indian Penal Code, 1860 ('IPC' for short) in FIR No. 72 dated 22.5.1999, registered at Police Station Baghapurana.

Prosecution story, in brief, is that on 21.5.1999, at about 6.00 P.M., complainant Harpal Kaur and her husband Jagtar Singh were working in their fields. Darshan Singh and Surjit Kaur were working in the adjoining fields. In the meantime, Shamsher Singh, cousin brother of Jagtar Singh, armed with spear, Amarjit Singh-appellant, armed with *kirpan* and another person armed with *dang* came there and said that they would teach a lesson to Jagtar Singh for getting the land released. Shamsher Singh gave a spear blow on the left side of the abdomen of Jagtar Singh. Amarjit Singh gave a *kirpan* blow on the right side of the abdomen of Jagtar Singh. The third person gave a *dang* blow on the left side of the

head of Jagtar Singh. As a result of this, Jagtar Singh fell on the ground with his face downward. Shamsheer Singh gave a spear blow on the left side of the back of Jagtar Singh whereas Amarjit Singh gave a *kirpan* blow on the right side of back of Jagtar Singh. On an alarm raised by the complainant, Darshan Singh and Surjeet Kaur reached the spot. Thereafter, the assailants left the spot along with their respective weapons.

After completion of investigation and necessary formalities, challan was presented against the accused.

Charge was framed against the accused under Section 307, 324, 323, 34 IPC vide order dated 6.10.2003.

In order to prove its case, prosecution examined 14 witnesses during trial.

Appellant Shamsheer Singh when examined under Section 313 of the Code of Criminal Procedure, 1973 ('Cr.P.C.' for short), after the close of prosecution evidence, prayed as under:-

"I am innocent. I did not cause any injury to Jagtar Singh injured. He received injuries when he was in a drunken condition due to fall on the cultivator. I, my son and Harjinder Singh falsely implicated in this case as Jagtar Singh wanted to snatch our land."

Similar plea was taken by Appellant Amarjit Singh when examined under Section 313 Cr.P.C., after the close of prosecution evidence.

Appellants examined two witnesses in their defence.

Trial Court vide judgment/order dated 6.11.2003 ordered the conviction and sentence of the appellants under Section 307, 324/34 IPC. However, Harjinder Singh alias Raju,

co-accused of the appellants, was ordered to be acquitted of the charge framed against him. Hence, the present appeal by the appellants.

During the pendency of the appeal, appellant No. 1-Shamsher Singh died on 12.7.2008.

I have heard the learned counsel for appellant No. 2-Amarjit Singh and the learned State counsel and have gone through the record available on the file carefully.

PW-1 Dr. Arbinder Singh deposed that on 21.5.1999, at about 8.00 P.M., he had examined Jagtar Singh and had found following injuries on his person:-

- 1) An incised penetrating wound of 4 x 1 cm on front of abdomen on right lumber side 15 cm above the mid line at level of neabus. Fresh profuse bleeding was present.*
- 2) An incised penetrating wound of 4 x 1 cms on front of abdomen on left lumber side. 20 cm from midline at level of neabus. Fresh bleeding was present.*
- 3) An incised penetrating wound of 4 x 1 cm on back of abdomen in right lumber region .3 cm from mid line opposite P-12. Fresh bleeding was present.*
- 4) An incised penetrating wound of 4 x 1 cm on back of the left lumber region. Close to mid line opposite P-12. Fresh bleeding was present.*
- 5) An abraided contusion of 1 x .3 cms on lateral end of left eyebrow. Fresh bleeding was present.*

He further deposed that weapon used qua injury Nos. 1 to 4, was sharp and qua injury No. 5, it was blunt. He further

deposed that injuries No. 1 and 2 on the person of Jagtar Singh were individually dangerous to life.

Complainant Harpal Kaur while appearing in the witness box as PW-2 deposed as per the contents of the FIR. Injured Jagtar Singh while appearing in the witness box as PW-5, has corroborated the statement of the complainant. PW-8 Darshan Singh has corroborated the statement of the complainant qua the manner of occurrence.

Complainant, PW-5 Jagtar Singh and PW-8 Darshan Singh were cross-examined at length but their statements qua manner of occurrence could not be shattered. In the present case, the ocular version is duly corroborated by the medical evidence. *Kirpan* used by appellant Amarjit Singh at the time of occurrence, was recovered on the disclosure statement suffered by the appellant on 22.6.1999. Thus, from the ocular version as well as medical evidence, it is evident that appellant Amarjit Singh along with his co-accused had inflicted injuries on the person of injured Jagtar Singh with an intention to commit his murder. Injured had suffered serious injuries at the hands of appellant Amarjit Singh and his co-accused.

In the facts and circumstances of the present case, Trial Court had rightly ordered the conviction and sentence of appellant No. 2-Amarjit Singh under Section 307, 324/34 IPC.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

January 21, 2015