

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

Date of Decision : 06.01.2015

1) CRA-S-1064-SB of 2002 (O&M)

Kala Singh

..... Appellant

Versus

State of Punjab

..... Respondent

2) CRA-S-1065-SB of 2002 (O&M)

Mithan Lal

..... Appellant

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Ms. Aditi Girdhar, Advocate
& Mr. Amandeep Saini, Advocate
for the appellants.

Mr. A.P.S. Gill, A.A.G., Punjab.

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

AJAY TEWARI, J. (Oral)

Both the appeals are connected and are being disposed of by

common order since cause of action in both the cases are related. For the sake of convenience the facts are being taken from CRA-S-1064-SB-2002.

These appeals have been filed against the conviction of the appellants in FIR No.44 dated 29.06.1996 registered under Sections 148, 307, 149 IPC, 326/149 IPC & 324/149 IPC at Police Station City Muktsar. Both the appellants were convicted under Sections 148 & 307 read with Section 149 IPC and sentenced to undergo rigorous imprisonment of 4 years by the Additional Sessions Judge (Adhoc), Faridkot vide judgment dated 11.06.2002.

The allegations were that at about 8.15 P.M. on 28.06.1996, the complainant-Harjinder Singh and his brother Balwinder Singh were going to their house from mosque side at Muktsar. When they reached near mosque, they were attacked by the appellants along with three other persons who were all armed with sharp edged weapons. They caused injuries to both the brothers particularly targeting Balwinder Singh. At one stage the said Balwinder Singh managed to free himself from the clutches of the accused but when he tried to run away he fell down. Thereupon the appellants and their co-convicts again attacked him. As many as 36 injuries were found on his person out of which injuries No.5, 6, 7, 12, 19, 21 and 22 were declared grievous in nature and injury No.10 was declared as dangerous to life. The doctor also appeared to corroborate the medical condition of the injured. Both Balwinder Singh and Harjinder Singh appeared as witness and stood their ground despite a long and searching cross-examination. It was in these circumstances, the trial Court convicted

them and sentenced each of them to undergo rigorous imprisonment of 4 years.

The first argument of learned counsel for the appellants is that no specific attribution has been made. This factor has been duly considered by the trial Court who has noticed that in such a condition it could not be expected from the injured to give a comprehensive list of injuries and that who caused them.

Learned counsel for the appellants have further argued that even the trial Court has noticed that there was previous enmity between the parties and this would be a good reason for the complainant and the injured to have falsely implicated the appellants and their co-convicts.

Learned Assistant Advocate General has countered by arguing that this argument would be totally baseless because previous enmity also furnished the motive for the appellants and their co-convicts to attack the two brothers. As per the learned Assistant Advocate General normally the testimony of an injured witness has to be believed because he would have no reason to exculpate the real culprits and in such circumstances no one would wish to save the skin of real culprits by inculcating wrong persons because of enmity with them.

Learned counsel have taken me through the testimony of all the witnesses. I find that the trial Court has rightly considered their evidence. Both the injured remained unshaken in their cross-examination and their testimony hang together and did not appear to be fabricated.

In these circumstances, I see no ground to set aside the

conviction and consequently I dismiss the plea regarding the same.

Learned counsel for the appellants have then argued that the appellants have faced this agony of these proceedings for 18 long years and this would call for some reduction in the sentence.

On the other hand, it can also be argued that for this long period of 18 years it is the complainant/injured who have faced the agony of watching the appellants avoiding their punishment. However, on a balance the prejudice caused to the appellants slightly outweighs that caused to the complainant. In the circumstances, I deem it appropriate to reduce the sentence of the appellants to 3 years from 4 years. Ordered accordingly.

Appeals stand disposed of in the above terms. Let the appellants be now apprehended to serve out the remaining period of their sentence.

Since the main case has been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

January 06, 2015

ashish

**(AJAY TEWARI)
JUDGE**