

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

**CRA-S-1818-SB of 2003 (O & M)
Date of decision : 3.3.2015**

Ravinder Singh @ Kaka and another **.....Appellants**

v.

State of Punjab **.....Respondent**

CORAM : HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present : Mr. J.S. Mehndiratta, Advocate, for the appellants

Ms. Meenakshi Goyal, AAG, Punjab

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Raj Rahul Garg, J.

The present appeal has been filed by the appellants challenging the judgment of conviction dated 16.9.2003 vide which they were convicted for commission of offence punishable under Section 324/34 IPC and vide order of even date they were sentenced to undergo rigorous imprisonment for two years and to pay a fine of ₹ 1000/-each with default clause.

Briefly, facts of the prosecution case are like this; that on 10.8.2000 at 12.00 Noon, complainant Surinder Pal Singh along with Sukhdev Singh was going to get filled petrol in his Scooter bearing No.PB 24 8818 from Petrol Pump, Saila Khurd and when they reached near the shop of Rama Nand Electronics, Saila Khurd turn, they found Onkar Singh @ Kara, armed with

gandasi, Ravinder Singh @ kaka, armed with chhura and Jujhar Singh @ Jhara, armed with kirpan, were standing there. The assailants stopped the scooter of the complainant. Jujhar Singh gave a kirpan blow on the right side of the head of the complainant and Ravinder Singh gave him three chhura blows on his hip. Accused Onkar Singh gave a gandasi blow from its blunt side on the left elbow of the complainant. Complainant fell down and raised alarm 'mar ditta mar ditta'. On his hue and cry, all the accused persons ran away from the spot along with their respective weapons. Sukhdev Singh witnessed the occurrence but due to fear he did not interfere. Thereafter, Sukhdev Singh took the complainant to Civil Hospital, Garhshankar by arranging a vehicle. There complainant was medically examined by Dr. S.P. Banga, who found 4 incised wounds and one abrasion on the person of the complainant. Ruka Ex.PB was sent to Police Station Garhshankar on 10.8.2000. On receipt of information from the hospital, SI Parminder Singh, Investigating Officer of the case, reached at the hospital and moved application Ex.PC regarding fitness of the complainant, who was declared unfit to make a statement. Thereafter, statement of the complainant was recorded on 11.8.2000 which is Ex.PG. Investigating Officer made his endorsement Ex.PG/1 thereon and sent ruka, on the basis of which formal FIR Ex.PG/2 was recorded by Gopal Singh. Thereafter, the Investigating Officer inspected the spot and rough site plan of the place of occurrence Ex.PJ was prepared. He also recorded the statements of other witnesses. On 21.8.2000 accused Jujhar Singh was arrested and alleged kirpan (Ex.P 5) was recovered from him, which was taken into police possession vide recovery memo Ex.PK. On the same day, accused Ravinder Singh was also arrested and alleged knife/chhura (Ex.P6) was recovered from him, which was also taken into police possession vide recovery memo Ex.PL. After completion

of necessary investigation, the challan was put in Court against accused Ravinder Singh and Jujhar Singh only. Motive behind the occurrence as alleged was previous altercation between the appellants and the complainant.

It is necessary to mention here that Onkar Singh accused was kept in Column No. 2. However, during the course of trial, invoking the provisions of Section 319 Cr.P.C. he was also summoned as an accused to face the trial.

Finding prima facie case against the appellants as well accused Onkar Singh for committing offences punishable under Sections 307/34, 326/34 and 324/34 IPC, they were charge sheeted accordingly, to which accused pleaded not guilty but claimed trial.

After taking prosecution evidence, statements of accused under Section 313 Cr.P.C, were recorded. Each incriminating material was put to the accused to which, they denied and pleaded their innocence. The defence taken by the accused is this, that Surinder Pal Singh @ Lucky is in the habit of giving beatings to the people after getting supari from their opponents. Wife of Sohan Singh gave supari to Surinder Pal Singh for beating Sohan Singh. About 2 days earlier Surinder Pal Singh came to Sohan Singh resident of village Chamblan, who was white washing their house. Ravinder Pal and Jujhar Singh, saved Sohan Singh from Surinder Pal Singh, who created nuisance in front of their house. Sarpanch was called and on his persuasion Surinder Pal Singh left the place and while leaving he gave threats to teach a lesson to them. Because of his activities, there are several enemies of Surinder Pal Singh in that area. Some of them had given injuries to Surinder Pal Singh but he had falsely implicated us along with Onkar Singh. Nothing was recovered from Onkar Singh and he was found innocent in police investigation.

After hearing learned counsel for the parties and appraising the

entire evidence and material coming on record, the learned Additional Sessions Judge (Ad hoc), Hoshiarpur, convicted accused Ravinder Singh and Jhujhar Singh only for committing offences punishable under Section 324/34 IPC whereas accused Onkar Singh was acquitted.

Of course, charge against the accused was under Section 307 IPC but keeping in view the statement of Dr. SP Banga (PW1) that injuries No. 1 to 4 on the person of Surinder Pal Singh-complainant, collectively were dangerous to life of the victim and further that the aforesaid injuries were simple in nature. It was held that the intention of accused was not to kill but was only to cause hurt to him. No fracture of bone underneath aforesaid injuries were there. Doctor deposed that those injuries were declared dangerous to life as heavy blood was oozed out of those injuries. When the patient was brought to the hospital he was looking quite normal. Condition of the patient remained improving after the treatment in the hospital and the condition of the patient never deteriorated during his stay in the hospital and all his vitals remained normal. With the afore discussed evidence, it was held by the learned Additional Sessions Judge (Ad hoc), Hoshiarpur, that the offence punishable under Section 307 IPC is not made out against any of the accused and therefore, accused Ravinder Singh and Jujhar Singh were acquitted of the charges under Section 307/34 IPC. Instead, they were held guilty for offence punishable under Section 324/34 IPC, since both these accused have inflicted simple injuries with their sharp edged weapons. They were also acquitted of the charges under Section 326/34 IPC. By passing the judgment of conviction dated 16.9.2003 and order of sentence of even date, accused Ravinder Singh and Jujhar Singh were sentenced to undergo rigorous imprisonment for a period of 2 years and to pay fine of ₹ 1000/-each and in default of payment of fine to

further undergo rigorous imprisonment for one month each.

I have heard Mr. J.S. Mehndiratta, Advocate, for the appellants, Ms. Minakshi Goyal, AAG, Punjab, for the State and appraised the entire material coming on record.

At the very outset, learned counsel for the appellants contended that the appellants do not contest the findings of the learned trial Court recorded on merits of the case. They will feel satisfied if leniency is shown to them in the matter of sentence. In fact, the appellants have been falsely implicated in this case. The investigation of the case is also a manipulated affair. Blood stained earth was not lifted from the spot. Though great amount of blood oozed out from the injuries as doctor deposed that on account of loss of blood, the injuries were reported as dangerous to life. Clothes of the deceased have not been taken into possession so as to show the corresponding injuries, allegedly suffered by the complainant. Onkar Singh, who was also named and implicated by the complainant in this case, was ultimately found innocent by the police and latter by the Court as well. Even, the opinion that the injuries on the person of Surinder Pal Singh, were dangerous to life, whereas the Court ultimately held that Surinder Pal Singh did not suffer injuries, which can be termed as dangerous to life and convicted the accused only for offence punishable under Section 324/34 IPC. It is the first offence of the accused appellants. As such, they be released on probation as this would give a chance to the accused to reform themselves and desist the appellants from becoming hardened criminals.

Under the above discussed circumstances and further taking into consideration that the offence is of the year 2000 and now we are running in the year 2015, as such, the appellants have already faced the agony of trial for full 14 years and as the appellants are the first offenders, therefore, being of the

opinion that the ends of justice would be met if benefit of Section 4 of the Probation of Offenders Act, 1958 is given to the accused. Accordingly, appellants are allowed to be released on probation on furnishing of probation bond for a period of 3 years in the sum of ₹ 25000/-each with one surety each in the like amount, under the supervision of Probation Officers to the satisfaction of CJM, Hoshiarpur.

The appeal is disposed of accordingly.

(RAJ RAHUL GARG)
JUDGE

3.3.2015
Ashwani