

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

CRR-1106 of 2006 (O&M)

Date of decision: 30.09.2015

Jagdev Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Joravar Singh, Advocate for
Mr. N.S. Shekhawat, Advocate for the petitioners.

Mr. Mehardeep Singh, DAG, Punjab
for the State.

Jitendra Chauhan, J.

By filing the present criminal revision, the petitioners have assailed the judgment dated 10.05.2006, vide which, the learned Addl. Sessions Judge (Ad hoc), Fast Track Court, Sangrur, upheld the judgment dated 10.01.2003, passed by the learned Judicial Magistrate 1st Class, Malerkotla, whereby, the petitioners were convicted under Sections 326, 325, 323 and 411 of the Indian Penal Code (for short 'IPC') and sentenced to undergo RI for a period of three years each and to pay fine of Rs. 500/- each; in default of payment of fine, to further undergo RI for 15 days each, under

Section 326 IPC. They were further sentenced to undergo RI for a period of two years each and to pay fine of Rs. 300/- each; in default of payment of fine, to further undergo RI for 10 days each, under Section 325 IPC. They were sentenced to undergo RI for a period of six months each and to pay fine of Rs. 200/- each; in default of payment of fine, to further undergo RI for 07 days each, under Section 323 IPC and further sentenced to undergo RI for a period of one year each and to pay fine of Rs. 200/- each; in default of payment of fine, to further undergo RI for 07 days each, under Section 411 IPC.

The prosecution case as set out in the judgment of trial Court is as under:-

“The complainant Major Singh and Balwant Singh are friends On 13 1997 at about 10 P complainant was gong on tractor bearing registration No HR-09-0470 along with his friend Balwant Singh after ploughing the fields. When they reached near turning point of street leading to the house of Balwant Singh accused Jagdev Singh armed with Gandasa, Janta Singh also armed with gandasa, Major Singh and Dharam Pal armed with Dangs came running towards them by raising Lalkaras. They stopped the tractor and Jagdev Singh raised Lalkara that they should not be left alive because Balwant Singh has purchased the land from Meet Singh uncle of Jagdev Singh and as such he should be taught a lesson. Jagdev Singh accused gave gandasa blow towards the head of the complainant which hit on his right as a

result of which right ear pinna of the complainant was cut, Janta Singh gave gandas blow from reverse side on the right hand of the complainant. The complainant fell down from the tractor. When Balwant Singh tried to flee, accused Jagdev Singh gave gandas blow from reverse side on the head of Balwant Singh. Both of them raised hue and cry which attracted Karnail Singh and Bhajan Singh father of Balwant Singh. Major Singh also inflicted dang blow on the right shoulder of the complainant and one done dang blow to Balwant Singh on his left arm. Dharam Pal gave a number of blows to Balwant Singh. This occurrence was witnessed by Karnail Singh and Bhajan Singh. After causing injuries the accused went away. While going, they took Ford Tractor belonging to Balwant Singh. The motive is that Balwant Singh has purchased property from Meet Singh, uncle of Jagdev Singh and for this the accused had a grudge. Both the complainant and Baldev Singh were taken to Civi Hospital, Malerkotla from where on 14.6.1997, the complainant was referred to CMC Hospital Ludhiana from where he was again taken to Civil Hospital Malerkotla, after consultation. Case was registered. The tractor was recovered. After completion of investigation and other formalities, challan against the accused was presented in the court.”

The accused/petitioners were charge sheeted under Sections 326, 325, 323, 411 and 34 IPC, to which they pleaded not guilty and claimed trial.

In support of the case, prosecution had examined PW-1

Dr. Shital Jain, who medico-legally examined Major Singh; PW-2 Balwant Singh, injured/ eye witness; PW-3 Bhajan Singh; PW-4 SI Harnek Singh; PW-5 SI Ajmer Singh, PW-6 Balwinder Singh, Clerk, Civil Hospital, Malerkotla; PW-7 ASI Sewa Singh; PW-8 Faquir Chand; PW-9, Major Singh, complainant and PW-10 HC Kashmir Singh.

The statements of the accused under Section 313 Cr.P.C., were recorded in which they pleaded innocence and alleged false implication. However, no evidence was led in their defence.

After hearing the learned counsel for the parties and after going through the evidence on record, the trial Court convicted and sentenced the accused/petitioners, as recorded hereinbefore.

Feeling aggrieved against the judgments of both the Courts below, the instant revision was filed by the accused/petitioners which was admitted on 27.07.2006. The sentence of the petitioners Major Singh, Dharam Pal @ Dharma and Gurjant Singh @ Janta, was suspended on the same day.

The learned counsel for the petitioners has informed that the petitioner No.1, Jagdev Singh has completed his actual sentence whereas the petitioner No.4, Gurjant Singh has since expired during the pendency of the present petition. On behalf of the remaining petitioners i.e. Major Singh and Dharam Pal @ Dharma, he has contended that the both the Courts below have erroneously passed

the impugned judgments/orders, without properly appreciating the evidence on record. The occurrence took place on 13.06.1997, whereas, the FIR was registered on 15.06.1997. Except PW-3 Bhajan Singh, who is an interested witness, no independent was joined by the police in the investigation. Ajaib Singh, Lambardar, who had come on the spot was not joined for the reasons best known to the prosecution.

It is further submitted that the petitioner No.2, Major Singh has already completed 06 months and 16 days of sentence, while the petitioner No.3-Dharam Pal @ Dharma has completed 07 months and 06 days of sentence, out of their substantive sentence of three years. Both the petitioners are sole bread winner of their families. The petitioners have never misused the concession of bail during the pendency of present petition as well as during the trial. The FIR in question was registered on 15.06.1997. Thus, the learned counsel prays for a lenient view on the quantum of sentence imposed by the trial Court.

On the other hand, the learned State counsel opposed the prayer of petitioners/accused and supported the judgment of conviction and order of sentence passed by the trial Court.

I have heard the learned counsel for the parties and have carefully gone through the record of the case.

The prosecution case is fully proved by the statements of

the prosecution witnesses. There is no flaw in the impugned judgment of conviction.

There is, thus, no illegality in the impugned judgment dated 10.05.2006, passed by the Addl. Sessions Judge, Sangrur, as also in the judgment dated 10.01.2003, passed by the Judicial Magistrate 1st Class, Malerkotla, and the same, are, hereby upheld and affirmed. There is no merit in the present revision petition, therefore, the same is hereby dismissed.

The petitioner No.4 Gurjant Singh has since expired, therefore, the proceedings against him stands abated. The petitioner No. 1-Jagev Singh has already completed his sentence. The remaining two petitioners i.e. Major Singh, petitioner No.2 and Dharam Pal @ Dharma, petitioner No.3, have suffered agony of a protracted trial as the FIR in the instant case was registered on 15.06.1997. It is one of the mitigating circumstance to take a lenient view in the matter. Both the petitioners are stated to be the first offenders. Petitioner Major Singh has already undergone 06 months and 16 days and petitioner Dharampal @ Dharma, has undergone 07 months and 06 days, out of the substantive sentence of three years. In view of the above, the prayer made on behalf of the petitioners is accepted. The sentence awarded to the petitioners Major Singh and Dharam Pal @ Dharma under Section 326 IPC, is reduced from 03 years to 1 ½ year.

However, the same shall be subject to payment of fine of ₹25,000/- each payable by Major Singh and Dharampal @ Dharma, accused over and above the fine already imposed by the trial Court which shall be paid towards compensation to injured Balwant Singh and Major Singh in equal share, to be paid within four months after the receipt of certified copy of the order. It is made clear that if the enhanced amount of fine is not paid to the injured, within the stipulated period, the present petition shall be deemed to be dismissed without any notice.

Ordered accordingly.

30.09.2015

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(JITENDRA CHAUHAN)
JUDGE