

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1907-2006

Date of decision : 16.09.2015

Baldev Singh
...Petitioner
Versus
State of Punjab
...Respondent

CORAM : HON’BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. B.S. Bhalla, Advocate,
for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab.

JITENDRA CHAUHAN, J.

The present revision petition has been filed by petitioner, Baldev Singh, challenging the judgment dated 28.08.2006, passed by the learned Additional Sessions Judge, Ferozepur, (for short, 'the first appellate Court') dismissing the appeal preferred by the petitioner against the judgment of conviction and order of sentence dated 15.09.2003, passed by the learned Judicial Magistrate 1st Class, Abohar, (for short, 'the trial Court') vide which, the accused-petitioner has been convicted and sentenced as under:-

Conviction Section	under	Sentence	In default of payment of fine
-----------------------	-------	----------	-------------------------------

ATUL SETHI
2015.09.29 16:24
I attest to the accuracy and
authenticity of this document
Chandigarh

Section 325 IPC	RI for one year and fine of Rs.100/-	To further undergo imprisonment for ten days
Section 323 IPC	RI for three months and fine of Rs.50/-	To further undergo simple imprisonment for five days

However, both the sentences were ordered to run concurrently.

Brief facts of the case find mention in para No.3 of the judgment rendered by the first appellate Court, which read as under:-

“3. Briefly stated the facts of prosecution story were that on 4.5.99 one query was received from P.S. City Abohar regarding admission of Pirthi Raj son of Bhajan Lal. Then HC Tilak Raj, PHC Jaswant Rai went to P.S. City Abohar and after receiving the MLR went to civil hospital, Abohar. Thereafter, statement of Pirth Raj was recorded to the effect that he hails from village Panniwala Mahla and works as an agriculturist. On 3.5.99 at about 10.30 p.m. he was sitting in his shop in village Panniwala Mahla. Then Raja son of Sukhwinder Singh armed with rifle alongwith his body guard Baldev Singh son of Harbans Singh having rifle came on his shop. Raja @ Gurmeet Singh enquired him regarding the whereabouts his son Budh Ram and he replied that he was not aware. Raja @ Gurmeet

Singh and Baldev Singh started quarreling with him. He picked up the Danda. Baldev Singh gave two Butt blows of rifle on his right shoulder. Raja Singh was holding him. Gunman of Raja Singh namely Baldev Singh accompanied with one Combinewala person and Ved Parkash son of Raja Ram on 18.4.99 at about 11.45 pm gave kick blow on the shutter of his shop. Regarding this they apologised in the panchayat. On 3.5.99 when injuries were caused by Raja Singh and Baldev Singh no witness was present. When the accused were about to leave in a Jeep Rai Sahib and Raja Ram came present on the spot. On 4.5.99 he was got admitted in the hospital by his son Budh Ram. The reason for enmity was that a case was pending against Raja @ Gurmeet Singh and he was witness. His son Budh Ram helped Kanwarsain son of Hans Raj in getting bail in that case. His son Budh Ram was member panchayat. Raja Singh was also having pistol...”

In this background, DDR No.13 dated 04.05.1999 was recorded under Section 323/34 IPC. On 10.05.1999, injury No.1 on the person of Pirthi Raj was declared grievous after x-ray examination. A case under Section 325 IPC was registered. After

completion of the investigation, challan was presented against the accused.

After summoning the accused, the complaint moved by the complainant on 7.7.1999, before the learned Judicial Magistrate 1st Class, Abohar, was also clubbed with the police case, on the application moved by the accused.

Charges under Sections 325, 323, 34 IPC were framed against they accused to which they pleaded not guilty and claimed trial. In prosecution evidence, Pirti Raj, Rai Sahib, Dr. S.K. Juneja, ASI Tilak Raj, Dr. Dial Singh, Dr. J.S. Dalal, ASI Narinder Pal Singh, ASI Hardam Singh, C. Rashpal Singh and Budh Ram, were examined.

When examined under Section 313 Cr.P.C., the accused denied all allegations and pleaded innocence. However, he did not lead any evidence in defence.

After hearing learned counsel for the parties and perusing the evidence available on record, the learned trial Court acquitted accused-Gurmeet Singh @ Raja, by giving him benefit of doubt, whereas, convicted and sentenced the petitioner as noticed at the outset of this judgment. Feeling aggrieved, the petitioner preferred an appeal before the learned Appellate Court, which also stood dismissed. Hence the present criminal revision petition, which was admitted by this Court on 19.09.2006.

In this case, the occurrence took place on 03.05.1999, and in this regard DDR No.13 was recorded on 04.05.1999, i.e. the very next day of the date of occurrence. Though, the FIR came to be registered on 10.05.1999, i.e. after a delay of six days, however, the fact that DDR was recorded promptly and since the first concern of everyone is to provide immediate medical aid to the injured, the delay in registering the FIR is inconsequential. Moreover, the FIR was registered on 10.05.1999 on receipt of the report of the x-ray, whereby, the injury kept under observation was declared as grievous. Furthermore, PW4, Dr. Dial Singh has simply stated that injury No.2 may be an old healing fracture at the time of x-ray examination and that the definite opinion can be given by the radiologist. On the other hand, PW1, complainant has stated that accused-Baldev Singh gave two blows of Butt of his rifle on his right shoulder. His version is fully supported by the testimonies of PW5, Dr. Dayal Singh and PW6, Dr. J.S. Dalal. The prosecution version qua the injuries sustained by the injured is fully corroborated by the medical evidence on record.

Therefore, this Court is not inclined to disturb the concurrent findings recorded by the learned Courts below in the matter of conviction and the same is hereby maintained.

However, as far as the sentence part is concerned, the incident took place on 03.05.1999 and the petitioner has been facing the agony of protracted trial for the last more than sixteen

years. He was a young man of 30 years of age at the time of the occurrence. The learned counsel for the petitioner, thus, prays for a lenient view in the matter of sentence.

Keeping in view the mitigating circumstances enumerated above, this Court is inclined to take a lenient view as far as the quantum of sentence is concerned. Accordingly, the sentence of imprisonment awarded under Section 325 IPC is reduced from one year to six months. The petitioner is stated to be on bail. He be taken into custody forthwith, to undergo the remainder of the sentence. His bail bonds shall stand forfeited.

This revision petition stands disposed of accordingly.

16.09.2015

atulsethi

(JITENDRA CHAUHAN)
JUDGE

Note : Whether to be referred to Reporter? Yes / No.