

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

CRA-S-1411-SB of 2003
Date of Decision: May 6, 2015

Sunil @ Tida ...Appellant

Versus

State of Punjab ...Respondent

CRA-S-1380-SB of 2003

Jit Ram ...Appellant

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. K.S. Boparai, Advocate
for the appellants.

Mr. J.S. Brar, Advocate
for the respondent.

FATEH DEEP SINGH, J.

Both these aforesaid appeals having been preferred against the same very judgment, order of sentence dated 24.7.2003 passed by the learned Additional Sessions Judge (Adhoc), Ludhiana are being disposed off together.

Initially three accused namely Jit Ram, Sunil @ Tida and Ramesh Kumar @ Mesi were put up for trial before the

learned Additional Sessions Judge, (Adhoc) Ludhiana to face trial in case FIR No.83 dated 11.4.2001 under Sections 326,452,450 and 34 IPC Police Station, Haibowal, Ludhiana. The premise of the allegations is that on 9.4.2001 around 6.30 p.m. while complainant Chanan Singh was sitting in the courtyard of his house, these accused, who were taking liquor on the roof of the house of accused Jit Ram entered into a verbal duel and that accused Jit Ram now appellant and Ramesh Kumar @ Mesi exhorted co-accused Sunil @ Tida, present appellant who hurled an empty bottle of liquor from the roof top hitting the complainant on the right eye, who was rushed to hospital. Upon registration of the case and completion of investigations, challan was presented and the accused were put to trial. Through impugned judgment dated 24.7.2003 the learned Additional Sessions Judge (Adhoc), Ludhiana giving benefit of doubt acquitted accused Ramesh Kumar @ Mesi, whereas, accused, present appellant Sunil @ Tida was held guilty under Section 325 read with Section 34 IPC and was sentenced to undergo rigorous imprisonment for three years and to pay a fine of ₹1000/- and in default thereof to further undergo rigorous imprisonment for one month and accused-Jit Ram appellant was sentenced under Section 325 IPC to undergo rigorous imprisonment for two years and to pay a fine of ₹700/- and in default thereof to further undergo rigorous imprisonment for 15 days.

Learned counsel for the appellants at the very onset of his arguments had made a prayer for release of the appellants-convicts on probation and which prayer has sought to be opposed on behalf of the State by Mr. J.S. Brar, AAG, Punjab

on the grounds that the complainant has suffered injury on the right eye and which has impacted his vision. Appreciating these submissions, the accused have been held guilty for a lone injury and which is as per the impugned findings covered under Section 325 IPC. Accused-Sunil @ Tida was sentenced to undergo rigorous imprisonment for three years and to pay fine of ₹1000/- whereas, his co-accused Jit Ram has been convicted for a period of 2 years and to pay a fine of ₹700/-. It is the admitted stand that the parties including accused are *bazigars* by caste belong to lower strata of the society. After the registration of the case in the year April, 2001 till date the appellants have undergone almost three years of agony of investigations and trial and, thereafter, sword of damocles is hanging upon the convicts since the day of their conviction for a period of almost 12 years and, therefore, have sufficiently undergone trauma and distress on account of this. It is the own case of the complainant that convict Jit Ram-appellant is his immediate neighbour and sending him to jail would result in bitter hatred and enmity which may lead to more serious repercussions.

Learned State counsel accepts that the convicts do not have any history of crime and even during the course of trial and, thereafter, they acted within the framework of law. Thus, commensurate with the theory of Reformation, this Court is of the view that sending the convicts to jail would give them exposure to more crime and it may have more serious repercussions to their family as well as themselves and may lead towards more criminality. Thus, exercising powers under Section 360 Cr.P.C. and keeping in view that even before this Court the

appellants have squarely accepted with humbleness the findings of the trial Court and only sought a prayer for release on probation of good behaviour and there is no circumstance to deny this legitimate prayer and, thus, upholding the judgment of conviction the same is modified by ordering that the convicts-appellants be released on probation of good conduct for a period of one year to the satisfaction of the trial Court. However, to assuage the feeling of wrong done for the injury to the complainant which has its repercussions on his vision of right eye, it would adequately meet the ends of justice, if convicts-appellants Sunil @ Tidda and Jit Ram are ordered to pay a sum of ₹10,000/- each to the complainant Chanan Singh (totalling to ₹20,000/-).

In the light of the same, both the appeals stand disposed off.

(FATEH DEEP SINGH)
JUDGE

May 6, 2015

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