

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

Criminal Appeal S-1443-SB of 2004
Date of Decision : September 20, 2016

Inder Singh and others	Versus	Appellants
State of Punjab		 Respondent

Criminal Revision 2195 of 2004

Narinder Kumar	Versus	Petitioner
State of Punjab and others		 Respondents

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Yogesh Goel, Advocate
for the appellants.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

T.P.S.MANN, J. (Oral)

The appellants, namely, Inder Singh, Ravinder Singh and Smt. Pushpa Rani were tried for committing offences punishable under Sections 307/326/324/506/34 IPC. Vide judgment and order dated 15.7.2004, learned Additional Sessions Judge (Adhoc), Fast Track Court, Ludhiana convicted them under Section 307 IPC and sentenced them to undergo rigorous imprisonment for seven years and to pay a fine of Rs.1,000/- each and in default of payment of fine, to further undergo rigorous

imprisonment for three months. Ravinder Singh was also convicted under Section 324 IPC whereas Inder Singh and Pushpa Rani under Sections 324/34 IPC and sentenced to undergo rigorous imprisonment for two years each. All the sentences were ordered to run concurrently. The period of detention already spent by them during the investigation and trial of the case was ordered to be set off against the sentences awarded to them.

Aggrieved of their conviction and sentence, the appellants filed the present appeal, which was admitted on 26.7.2004. Subsequently, their sentences of imprisonment were also suspended and they were ordered to be released on bail.

The case of the prosecution, in nutshell, is that on 1.5.2003 at about 8.00 p.m., when complainant Smt. Prem Taneja was present on the roof of her house and was looking downwards, she saw her husband Narinder Kumar returning home after paying obeisance at Shangla Wala Shiwala. When he reached near his house, Inder Singh and Pushpa Rani accused caught hold of him. Ravinder Singh was armed with a knife and he gave blows with the same in his abdomen and chest. The alarm raised by the complainant attracted the neighbours at the spot. However, all the three accused managed to run away. The motive, according to the complainant Smt. Prem Taneja was that her husband Narinder Kumar, who was a property dealer, was trying to sell the house of the accused but the accused

were insisting in getting higher price for their house.

Further case of the prosecution is that Narinder Kumar was removed to C.M.C. and Hospital, Ludhiana, where he was medico-legally examined. The statement of complainant Smt. Prem Taneja was also recorded by the police and on its basis, FIR No. 70 dated 2.5.2003 under Sections 326, 506 and 34 IPC was registered against the three accused. However, after receipt of report of the doctor declaring one of the injuries on the person of Narinder Kumar as dangerous to life, offence under Section 307 IPC was added.

At the trial of the case, the prosecution examined complainant Smt. Prem Taneja as PW1 and injured Narinder Kumar as PW2. Both of them testified the manner, in which, the occurrence had taken place and Narinder Kumar had received injuries with a knife at the hands of Ravinder Singh. Their testimonies stood corroborated by Dr. Pankaj Sircar, C.M.C. and Hospital, Ludhiana, who was examined by the prosecution as PW7. He had medico-legally examined Narinder Kumar on 1.5.2003 and noticed two injuries on his person. One of the injuries was a stab wound in the chest while the other a stab wound to the left of umbilicus. The first injury was declared to be simple while the other dangerous to life. The investigation part of the case was brought on record by the prosecution by examining PW4 Head Constable Sukhdarshan Singh, PW5 Assistant Sub-Inspector Surjit Singh, PW6 Head Constable

Satnam Singh, PW8 C-II Ram Saran, PW9 Head Constable Rajwant Pal and PW10 Assistant Sub-Inspector Amarjit Singh. Apart from them, PW3 Dr. Pyare Lal was also examined, who testified that in his presence Ravinder Singh, accused got recovered knife (MO-1) on 3.5.2003.

When examined under Section 313 Cr.P.C., the accused denied all the incriminating evidence and pleaded their false implication. However, in their defence, they did not produce any evidence.

After hearing learned counsel for the parties and on going through the record, the trial Court believed the prosecution case and convicted and sentenced the appellants, as mentioned above.

Having heard learned counsel for the parties and minutely scanning the evidence with their able assistance, this Court finds that on the day of occurrence, i.e. 1.5.2003 at about 8/8.30 p.m., Narinder Kumar, who was a property dealer, was returning home and was surrounded by the three appellants. While Inder Singh and Pushpa Rani, who were empty handed caught hold of him, their son Ravinder Singh, who was armed with a knife, used the same in causing two injuries, one in his chest and the other in the abdomen. The occurrence was witnessed by Smt. Prem Taneja, wife of injured Narinder Kumar, who after arranging conveyance removed him to C.M.C. and Hospital, Ludhiana, where he was medico-legally

examined. The presence of PW1 Smt. Prem Taneja cannot be said to be unnatural or improbable as at the relevant time, she was present on the roof of her house and looking downwards and she had seen her husband returning home after paying obeisance at a temple. Within her sight, Inder Singh and Pushpa Rani had caught hold of her husband whereas Ravinder Singh had caused two blows to him. Her statement stood duly corroborated by her husband Narinder Kumar, who was examined by prosecution as PW2.

The plea of the appellants that though complainant Prem Taneja knew the identity of the assailants, who had caused injuries to her husband, yet she did not name them while getting her husband admitted in C.M.C. and Hospital yet that is not sufficient to reject the prosecution case. In fact her case was that her husband had been attacked by some known persons. There was no necessity for the doctor to insist upon her to disclose the names of the assailants as that would not have helped the doctor in any manner while giving treatment to her husband Narinder Kumar. Another objection of the defence is that the appellants did not have any motive to cause injuries to Narinder Kumar. However, according to the prosecution the injured, who was a property dealer was taking steps to sell the house of the accused but the accused were insisting for getting better price for their house. Even otherwise, the motive lies hidden in the mind of the accused. When the Court has the benefit of the testimonies of the

two witnesses including the injured and no infirmity has been pointed out in their testimonies, absence of motive would not be sufficient to disbelieve the prosecution case.

As is clear from the medico-legal report prepared by PW7 Dr. Pankaj Sircar, two injuries were noticed on the person of Narinder Kumar. Injury on the chest was declared to be simple in nature while the other injury, which was in the abdominal region of Narinder Kumar was opined to be dangerous to life. Further, both Inder Singh and Pushpa Rani by catching hold of Narinder Kumar had facilitated the attack upon him, and, thus, they can be held vicariously liable for the act of their son Ravinder Singh in inflicting injuries including an injury, which was dangerous to life of Narinder Kumar.

In view of the above, no fault can be found with the conclusion arrived at by the learned trial Court while holding the appellants guilty of the charges under Sections 307/324 IPC read with Section 34 IPC.

As regards the question of sentence, it may be noticed that the appellants are facing the agony of criminal prosecution for the last more than thirteen years. None of them is shown to be either involved or convicted in any other criminal case. As per the custody certificates brought on record by the learned State counsel, Inder Singh appellant has undergone an actual sentence of one year, nine months and eleven days inclusive of remission of one year and twenty eight days,

Pushpa Rani has undergone total sentence of one year, nine months and twenty one days whereas Ravinder Singh has undergone total sentence of two years, nine months and twenty five days.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending Inder Singh and Pushpa Rani, appellants behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice shall be suitably met, if their sentences of imprisonment are reduced to the one already undergone by them. At the same time, no such concession can be extended to Ravinder Singh appellant, who was the one, who had inflicted two injuries to Narinder Kumar. Both the injuries were on his vital parts. The fact remains that the injury in the chest was simple whereas injury in the abdominal region was declared to be dangerous to life. At the same time, case is made out only for some reduction in his substantive sentences of imprisonment.

Resultantly, the conviction of all the appellants, as recorded by the trial Court is upheld. The substantive sentences of imprisonment of Inder Singh and Pushpa Rani appellants are reduced to the one already undergone by them. The fine of Rs.1,000/- imposed upon each of them for the offence under Section 307 IPC is, however, enhanced to Rs.5,000/- and in default thereof, they shall undergo rigorous imprisonment for six months. The substantive sentence of

imprisonment of seven years imposed upon Ravinder Singh appellant is, however, reduced to rigorous imprisonment for five years. The fine of Rs.1,000/- imposed upon him for the said offence is, however, enhanced to Rs.10,000/- and in default thereof, he shall further undergo rigorous imprisonment for nine months. The sentence of imprisonment for two years imposed upon him for the offence under Section 324 IPC is maintained. The substantive sentences of imprisonment shall run concurrently. The amount of fine be deposited by the appellants with the trial Court within three months from today. The entire amount of fine, when recovered, be disbursed in favour of complainant Smt. Prem Taneja, as compensation.

Criminal Appeal S-1443-SB of 2004 filed by the appellants is disposed of accordingly whereas Criminal Revision 2195 of 2004 preferred by the complainant is dismissed.

September 20, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No