

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

Criminal Appeal S-1660-SB of 2004
Date of Decision: December 12, 2016

Sadhu Singh	Versus	Appellant
State of Punjab		Respondent

Criminal Appeal S-1763-SB of 2004

Gurjant Singh	Versus	Appellant
State of Punjab		Respondent

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

Present: Mr. Mahesh Gupta, Advocate
for the appellants.

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

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

Sadhu Singh son of Kheta Singh and his cousin Gurjant Singh son of Gurdit Singh, residents of village Kaurian Wali were tried for committing offences under Section 307 read with Section 34 IPC and Section 307 IPC, respectively. Vide impugned judgment and order dated 9.8.2004, learned Additional Sessions Judge, Bathinda, convicted Gurjant Singh under Section 307 IPC and sentenced him to undergo rigorous

imprisonment for six years and to pay a fine of Rs.2,000/- and in default of payment of fine, to further undergo imprisonment for one year whereas Sadhu Singh was convicted under Section 307 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for four years and to pay a fine of Rs.1,500/- and in default of payment of fine, to undergo imprisonment for nine months.

Aggrieved of their conviction and sentence, the appellants filed the aforementioned appeals, which stood admitted and presently their sentences of imprisonment stand suspended.

According to the prosecution, on 13.1.2003 at about 7.00 p.m., complainant Harmandar Singh, his son Makhan Singh and the grandson were sitting around bonfire in front of the door of their house due to Lohri celebrations. In the meantime, their neighbours Sadhu Singh and Gurjant Singh came there. Gurjant Singh was having a kapa kept in the basket of his cycle. Immediately on coming, Sadhu Singh raised a lalkara that they would teach a lesson to the complainant party for prohibiting Gurjant Singh from visiting his house. On this, Gurjant Singh took out kapa from the basket of his cycle and gave blow with the same on the head of Makhan Singh, who fell down and raised an alarm. The complainant's son Jaspal Singh came running to the spot. Sadhu Singh ran inside his house and bolted the door

whereas Gurjant Singh left the spot on his cycle and carried kapa with him. Makhan Singh was then taken to Civil Hospital, Rampura, where after giving him first aid, the doctor referred him to D.M.C. Ludhiana. According to the prosecution, Gurjant Singh accused was having an affair with the daughter-in-law of Sadhu Singh accused but the complainant party used to restrain Gurjant Singh.

At the trial of the case, the prosecution examined complainant Harmander Singh as PW1 and injured Makhan Singh as PW2, who deposed about the ocular account of the occurrence. PW3 Dr. Vishal Goyal, Department of Surgery, D.M.C. Ludhiana, testified that he had medico-legally examined Makhan Singh and found 8 cm CLW oblique over the right parietal region. The brain matter was protruding from the wound. He also testified that the injury on the person of Makhan Singh was dangerous to his life. PW6 Dr. Vikas Kakkar, Department of Surgery, D.M.C. Ludhiana, proved the admission file of Makhan Singh, injured. PW4 Gurcharan Singh testified that he had delivered the special report of the case to the Ilqa Magistrate. PW5 Assistant Sub-Inspector Gurcharan Singh testified about the various steps taken by him during the investigation of the case.

When examined under Section 313 Cr.P.C., both the accused denied the allegations of the prosecution and claimed

their false implication. Sadhu Singh accused further stated that on 13.1.2003, Gurjant Singh accused had come to his house to invite him on the occasion of marriage of his daughter Paramjit Kaur. At that time, complainant Harmandar Singh was dead drunk. A quarrel took place between Gurjant Singh accused and Harmandar Singh complainant. The latter gave a gandasa blow on the back of the former, who raised an alarm. Makhan Singh injured came out of the house. Harmandar Singh complainant wanted to cause injury to Gurjant Singh accused but per chance the gandasa wielded by complainant Harmander Singh hit Makhan Singh injured on his head. The aforesaid version was adopted by Gurjant Singh accused.

In defence, the accused examined DW1 Head Constable Balwinder Singh, who proved the copies of DDR No. 28 as Ex. D1 and DDR No. 31 as Ex.D2. DW2 Dr. Davinder Pal Bansal testified that he had medico-legally examined Gurjant Singh accused on 13.1.2003. He proved the copy of the medico-legal report prepared by him as Ex.DW2/A. He further stated that after X-ray examination, he declared the injury on the person of Gurjant Singh accused as simple in nature. DW3 Gurcharan Singh deposed that he had produced Gurjant Singh accused before ASI Gurcharan Singh, who arrested him. DW4 Jagrup Singh proved on record surety bond Ex.D4 furnished by him for release of Sadhu Singh. DW5 Gurcharan Singh deposed

in terms of defence plea taken by the two accused. Similar stand was taken by DW6 Pappi Singh @ Balbir Singh and DW7 Ajmer Singh.

After hearing learned counsel for the parties and on going through the evidence available on record, the trial Court accepted the prosecution version and convicted and sentenced the two accused, as mentioned above.

Having heard learned counsel for the parties and scanning the evidence with their able assistance, this Court finds that PW1 Harmandar Singh and PW2 Makhan Singh have categorically deposed about the manner, in which, the occurrence had taken place. Both of them stated that on the day of the occurrence at about 7.00 p.m., when they were sitting in front of the door of their house around the bonfire while celebrating the Lohri festival, both the appellants reached there. Gurjant Singh was carrying a kapa. On the lalkara raised by Sadhu Singh, Gurjant Singh wielded the kapa in giving an injury on the head of Makhan Singh. The ocular account is duly corroborated by the testimonies of PW3 Dr. Vishal Goyal and PW6 Dr. Vikas Kakkar. Further, upon completion of the investigation, the police had found sufficient material to connect the two appellants with the crime alleged against them. Under these circumstances, this Court has no other option but to uphold the conviction of Gurjant Singh appellant under Section 307 IPC and of Sadhu Singh

appellant under Section 307 read with Section 34 IPC.

Coming to the question of sentence, it may be noticed that the two appellants are facing the agony of criminal prosecution for the last about fourteen years. None of them is stated to be either involved or convicted in any other criminal case. According to the learned counsel for the appellants, out of the sentence of six years imposed upon appellant Gurjant Singh, he has undergone an actual sentence of more than four years and eight months inclusive of remissions whereas Sadhu Singh appellant has undergone an actual sentence of more than one year and six months out of the sentence of four years imposed upon him. It is also submitted that Gurjant Singh had also received an injury during the occurrence with a sharp edged weapon on the back of his shoulder. It is further submitted that both the appellants are presently on bail for the last about 11/12 years. Prayer has, accordingly, been made for setting aside their remaining sentences of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the injury caused on the person of Makhan Singh by Gurjant Singh appellant had resulted into protruding out of the brain matter, which injury was declared to be dangerous to his life. He has also submitted that on the person of Gurjant Singh appellant only one injury was noticed and, that too, on his back. Further, the said injury was declared to be simple in

nature.

As per the custody certificates already brought on record by the learned State counsel, Gurjant Singh appellant has undergone an actual sentence of four years, eight months and seven days whereas Sadhu Singh appellant has undergone one year, six months and eighteen days. Both of them are stated to be neither involved nor convicted in any other criminal case.

Taking into consideration the totality of circumstances, this Court is of the view that no useful purpose will be served by sending the appellants behind the bars, once again, for undergoing the sentences of imprisonment imposed upon them. 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, the fine imposed upon them can be suitably enhanced so as to compensate Makhan Singh, injured.

Resultantly, the conviction of Gurjant Singh appellant under Section 307 IPC and of Sadhu Singh appellant under Section 307 read with Section 34 IPC is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. The fine of Rs.2,000/- imposed upon Gurjant Singh appellant is, however, enhanced to Rs.20,000/- whereas the fine of Rs.1,500/- imposed upon Sadhu Singh appellant is enhanced to Rs.15,000/-. The entire amount of fine, be deposited by the appellants with the trial Court within a period of three

months, failing which, they shall undergo imprisonment for two years. The entire amount of fine, when deposited by them, be disbursed in favour of Makhan Singh injured, as compensation.

Criminal Appeals S-1660-SB of 2004 filed by Sadhu Singh and S-1763-SB of 2004 filed by Gurjant Singh are, accordingly, disposed of.

December 12, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No