

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1978-SB of 2004(O&M)
Date of decision: 27.05.2016

Gurdev Singh alias Debu

..Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: None for the appellant.

Mr. R.S. Randhawa, Additional Advocate General, Punjab.

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not? X
3. Whether the judgment should be reported in the Digest? X

A.B. CHAUDHARI, J.(ORAL)

The present appeal was filed against the judgment and order dated 28.08.2004 in Sessions Case No. 58/6.9.2001 passed by Additional Sessions Judge (Fast Track), Kapurthala by which the appellant was convicted for offence under Section 307 IPC and was sentenced to undergo R.I. for 4 years and to pay fine in the sum of ₹ 1,000/-.

In brief the case of the prosecution is that the appellant-accused and complainant both are the truck drivers and there was an old enmity, due to which incident took place. On 2.6.2001 at about 3:30 a.m., the complainant was sleeping on *takhatposh*. He heard some noise of a person and woke up. At that juncture the appellant gave the *dattar* blow on his head, upon which the complainant raised

alarm. The appellant as well as all the three persons who were with the appellant-accused ran away. It is thus clear that the accused wanted to teach a lesson to the complainant. The facts do not show any calculated attempt to commit murder as such. Had there been any attempt or intention to kill the complainant, the appellant and the other persons would not have run away after giving a single blow. As per the evidence of Senior Medical Officer as mentioned in paragraph 15 of the impugned judgment, except for a cut injury, no other injury was caused by means of *datter*. There is no fracture or any internal haemorrhage which shows that there was no sufficient force used while giving the blow. Thus the medical evidence also shows the assault did not endanger the life of the complainant.

In my opinion the conviction under Section 307, therefore, would not be justified but the offence under Section 324 could be said to have been proved by the prosecution.

The appellant has already undergone sentence of 1 year and 6 months with remissions.

The appellant and complainant have also filed CRM No. 16730 of 2016 for recording compounding. The CRM is coupled with the affidavit of Rajinder Singh S/o Gurbachan Singh, the complainant. I quote paragraph Nos. 3 to 5 therefrom which read thus:-

- (i)“ That the deponent/Complainant had entered into a compromise with the Appellant without any pressure and with his own sweet will.
- (ii) That the deponent is not willing to pursue the case against the Appellant because he has compromised the matter with the Appellant and both the parties have no ill-will against each other.

- (iii) That deponent/Complainant do not want to take any action on the basis of the aforementioned FIR as he has already compromise the matter and terms are already mentioned in the Compromise.”

In my opinion in the above back ground, it would be appropriate to allow the compounding of offence under Section 324 IPC as held by me above. Thus I allow the compounding of the offence under Section 324 IPC.

In view of the above, I make the following order:-

Order

- (i) CRA-S-1978-SB of 2004 is partly allowed. The conviction of the appellant for the offence under Section 307 IPC is set aside and the appellant is held guilty of the offence under Section 324 IPC.
- (ii) In view of CRM No. 16730 of 2016 the compounding of offence under Section 324 IPC is allowed by accepting CRM No. 16730 of 2016 and the appellant is acquitted.
- (iii) Bail bonds stand discharged.

May 27, 2016
Poonam (II)

(A.B. CHAUDHARI)
JUDGE