

In the High Court of Punjab and Haryana at Chandigarh

CRA-S-337-SB-2004 (O&M)
Date of decision: 31.03.2016

Maha Singh and others

..... Appellants

Vs.

State of Haryana

..... Respondent

CORAM: HON'BLE MRS. JUSTICE RAJ RAHUL GARG

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

Argued by: Mr. Dilpreet Singh, Advocate
for appellants No.2 and 3.

Proceedings against appellant No.1 already dropped
vide order dated 09.01.2015, as he had died.

Mr. Vikas Chopra, DAG, Haryana.

RAJ RAHUL GARG.J.

This appeal is directed against the judgment dated 27.01.2004 rendered by learned Sessions Judge, Sonipat, whereby, appellants Maha Singh (since deceased), Rajbir and Ram Chander were held guilty for committing offence punishable under Sections 307/452/506/34 IPC, whereas, accused Umrao and Karambir were acquitted by giving them benefit of doubt as the prosecution had failed to bring home guilt against them. Vide order on sentence dated 29.01.2004, each one of the appellants was sentenced to undergo RI for 7 years with fine of Rs. 3000/- for committing offence punishable under Section 307/34 IPC with default

clause; for committing offence punishable under Section 452/34 IPC, each one of the appellants was sentenced to undergo RI for 3 years with fine of Rs. 1,000/-, with default clause and for committing offence punishable under Section 506/34 IPC, each one of the appellants was sentenced to undergo RI for one year. All the substantive sentences were ordered to run concurrently.

Brief facts of the prosecution case are like this; that on 19.10.1999, a VT message was received in the police station that Jagdish son of Lakhi Ram had been admitted in Jaipur Golden Hospital, New Delhi, on account of injuries suffered by him in an altercation. Mahender Singh, Head Constable, along with police officials reached the aforesaid hospital and obtained opinion of the doctor. Jagdish was declared fit for giving statement on 20.10.1999 when again opinion of the doctor was sought in that regard. Consequently, statement of Jagdish was recorded.

As per complainant, about 5 months ago, Gram Panchayat had decided to make the streets in the village *pucca*. It was also decided that each one of the villagers would contribute Rs. 300/- in this regard whereas the balance expenses shall be incurred by the Gram Panchayat. Balwant and Jeet Singh did not pay the aforesaid amount of contribution. Complainant asked them that it was in the interest of the entire village, as such, they should have also made the payment. At this, hot words were exchanged between complainant and Balwant. However, the matter was got settled with the intervention of some persons.

On the day of the occurrence i.e. 19.10.1999, at about 5:00 P.M., complainant was sitting in his house and was smoking *hukka*. Ram Rati, wife of complainant, was busy in her house hold work. At that time,

Maha Singh (since deceased), Rajbir, Umrao, Karambir and Ram Chander were armed with *lathis* and *jelis*. In furtherance of their common intention they entered into the house of complainant. Ram Chander uttered that complainant should be made '*Dada*' of the village. Maha Singh, who was armed with *jeli*, gave *jeli* blow on the head of the complainant. Rajbir caused injuries on the left hand of the complainant with his *jeli*. Umrao and Karambir gave *lathi* blows, one each on the back of the complainant. Complainant raised alarm which attracted Ram Rati, wife of the complainant, and Kaptan son of Risal Singh. Ram Chander inflicted injuries on the head of the complainant with the brick and all the accused could make good their escape alongwith their respective weapons. While leaving the place of occurrence, they also gave threat to the life of the complainant. On account of injuries suffered by the complainant, he became unconscious. On this statement of the complainant, case was registered. Investigations were conducted. Weapons of offence were recovered. Medico-legal reports were collected. On completion of necessary investigations, the challan was put in the Court against the accused.

Finding a *prima-facie* case against the accused, they were charge-sheeted for committing offence punishable under Sections 307/452/506/148 and 149 IPC. After taking entire prosecution evidence, statements of accused under Section 313 Cr.P.C. were recorded wherein accused denied each prosecution allegation and pleaded their innocence and false implication. The defence taken by the accused was that, due to party faction in the village, they have been implicated falsely in this case.

After hearing counsel for both the parties and appraising the entire material and evidence on record, the appellants-accused Maha Singh,

Rajbir and Ram Chander were held guilty under Sections 307/452/506/34 IPC whereas finding that prosecution has failed to bring home guilt against accused Umrao and Karambir by giving benefit of doubt, they were acquitted. Appellants were sentenced vide separate order dated 29.01.2004, as mentioned above in the earlier part of this judgment.

I have heard learned Shri Dilpreet Singh, Advocate, counsel for appellants No. 2 and 3 and learned Shri Vikas Chopra, DAG, Haryana, besides going through the record of this case.

At the very outset, learned Shri Dilpreet Singh, Advocate, counsel for appellants No.2 and 3, contended that in fact he does not assail the findings of the learned trial Court recorded on merits of the case. He would feel satisfied if sentence of appellants Rajbir and Ram Chander is reduced to the one already undergone. In fact, appellant Maha Singh has died during the course of pendency of this appeal, as such, proceedings against him were ordered to be dropped vide order dated 09.01.2015.

Learned counsel for appellants No.2 and 3 further contended that the alleged occurrence is dated 19.10.1999. Since then, more than 15 years have passed and even injured Jagdish is no more. Parties are not at issue at all. One of the appellant i.e. Maha Singh has also died. Appellants Rajbir and Ram Chander have also grown old and reached to an advance age. They have their families to look-after. No useful purpose would be served in sending them behind the bars. Appellant Rajbir has already undergone 7 months and 3 days sentence whereas accused Ram Chander has undergone 1 year, 1 month and 13 days sentence.

Learned State counsel has no serious objection in case the sentence of appellants No.2 and 3 is reduced to the one already undergone,

even otherwise, keeping in view the facts and circumstances of the case and particularly the factum of protracted trial and the advanced age of appellants No.2 and 3 and further the fact that complainant is no more and the matter in dispute, in fact, does not survive any longer, I am of the considered view that the ends of justice would be met in case the sentence of appellants Rajbir and Ram Chander is reduced to the one already undergone.

As per custody certificates available on the file, accused Rajbir has undergone 7 months and 3 days sentence whereas accused Ram Chander has undergone 1 year, 1 month and 13 days sentence. Under these circumstances, the sentence of Rajbir is reduced to 7 months whereas that of Ram Chander as 1 year. However, sentence of fine shall remain intact.

For the reasons recorded above, finding no merit in this appeal. The judgment of conviction dated 27.01.2004 recorded against the appellants-accused is maintained. However, the order of sentence dated 29.01.2004 is modified only to the extent indicated above, thereby, reducing the sentence of the appellants No.2 and 3 to the one already undergone whereas the sentence of fine shall remain intact.

Disposed of accordingly.

**(RAJ RAHULGARG)
JUDGE**

31.03.2016.
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