

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

CRA S-845-SB of 2004

Date of Decision : September 23, 2016

Dalip Singh and others	Versus	Appellants
State of Haryana		 Respondent

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

Present : Mr. R.K.Agnihotri, Advocate
for the appellants.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

Mr. Ashok K. Sharma, Advocate
for the complainant.

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

The appellants were tried for committing offences punishable under Sections 452 and 304 read with Section 34 IPC. Vide judgment and order dated 3/5.4.2004, learned Additional Sessions Judge Rewari acquitted them of the charge under Section 304 IPC holding that deceased Phoolpati had died a natural death. However, they were convicted for the offences under Sections 452 and 323 IPC and sentenced as below:-

- (i) Rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/- each under Section 452 IPC and in default of payment of fine, to further undergo rigorous imprisonment

for a period of six months; and

- (ii) Smt. Suresh Devi appellant sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- under Section 323 IPC and in default of payment of fine, to undergo rigorous imprisonment for three months whereas Dalip Singh and Smt. Geeta Devi appellants were sentenced to undergo rigorous imprisonment for six months each for the offence under Section 323 IPC.

All the sentences were ordered to run concurrently. The period of imprisonment already undergone by them during investigation/trial was ordered to be set off against the sentences of imprisonment imposed upon them.

Aggrieved of their conviction and sentences, the appellants filed the present appeal, which stood admitted and their sentences also suspended during its pendency.

The case of the prosecution is that on 16.10.2002, there arose a dispute between Lakhan Ram @ Tonu, brother of complainant Fateh Singh and Sonu son of Dalip Singh while playing. Both of them went to their respective houses. At about 5.00 p.m., the complainant, his mother Phoolpati and father Hansraj were present in their house. At that time, Dalip Singh, Suresh Devi and Geeta Devi besides Sonu son of Dalip Singh came there hurling abuses at Phoolpati. Suresh Devi gave a fist blow in the chest of Phoolpati, as result of which, she fell down. Suresh Devi sat on the chest of Phoolpati and gave her fist

blows whereas Dalip Singh, Geeta Devi and Sonu started giving her blows with fists and legs. With the help of one Umed Singh complainant Fateh Singh tried to take care of his mother Phoolpati but by that times she became unconscious. She was brought to General Hospital, Rewari in a van where the doctor declared her to be dead.

During the investigation of the case, Geeta Devi was found to be innocent whereas Sonu son of Dalip Singh was found to be a juvenile and, accordingly, separate challan qua him was submitted before the Juvenile Court. The challan was presented only against Dalip Singh and Suresh Devi. Later on, an application under Section 319 Cr.P.C. was filed by the prosecution, which was allowed and Geeta Devi was also summoned to face trial as an additional accused.

Learned counsel for the appellants has submitted that he does not challenge the conviction of the appellants, as recorded by the learned trial Court. He, however, submits that the appellants are facing the agony of criminal prosecution for the last about fourteen years. He also submits that none of the appellants was armed with any weapon at the time of the occurrence. They were attributed giving of fists and legs blows to Smt. Phoolpati. However, the death of Phoolpati was not on account of those injuries, rather, she had died a natural death. It is also submitted that Geeta Devi was found innocent during the investigation of the case and she was later on summoned as an additional accused. He further submits that Dalip Singh appellant has undergone an actual sentence of three months and

seven days, Suresh Devi appellant has undergone ten months and five days whereas Geeta Devi appellant has undergone total sentence of six days. None of the appellants is involved or convicted in any other case. Further, during the pendency of the appeal, none of the appellants has misused the concession of suspension of sentence. On the other hand, the appellants on the one hand and the complainant party on the other have started interacting with each other and there is no ill-will left in the minds of the parties. Prayer has, accordingly, been made for setting aside the remaining sentences of imprisonment of the appellants.

Learned State counsel has vehemently opposed the prayer by submitting that the appellants do not deserve any concession in the matter of suspension of sentence, as all of them had actively participated in causing fists and legs blows to the deceased. He has, however, produced the custody certificates, which indicate the period of sentence already undergone by them, as mentioned above.

Learned counsel for the complainant has submitted that he does not have any objection, if remaining sentences of imprisonment of the appellants are set-aside, as according to him, normal ties have been restored between the appellants on the one hand and the complainant party on the other.

Having heard learned counsel for the parties and taking into consideration the totality of the 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 their remaining sentences of imprisonment. Ends of justice shall be suitably met, if their substantive sentences of imprisonment are reduced to the one already undergone by them.

Resultantly, the conviction of the appellants for the offence under Sections 452 and 323 IPC, as recorded by the trial Court, is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. The sentences of fine along with their default clauses are, however, maintained.

The appeal is, accordingly, disposed of.

September 23, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No