

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

Crl. Appeal S-1361-SB of 2003
Date of Decision : January 22, 2016

Om Parkash and others	VERSUS	Appellants
State of Punjab		Respondent

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

Present : Mr. G.S.Kaura, Advocate
for appellants Om Parkash @ Omi, Balbir Singh
and Surinder Pal.

Mr. G.B.S.Dhillon, Advocate
for appellants Gurmail Singh and Raja.

Mr. Vikram Bishnoi, Asstt. Advocate General, Punjab.

Mr. Rajinder Goyal, Advocate
for the complainant.

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

The appellants, namely, Om Parkash @ Omi, Balbir Singh, Gurmail Singh, Surinder Pal and Raja along with eight others, namely, Gurdial Singh, Prem Singh, Ruldu, Gian Singh, Sita, Gurnam Singh, Raju and Jit Singh were tried for committing offences punishable under Sections 307/325/324/323/34 IPC for causing injuries to complainant Gurwinder Singh as well as Janta Singh, Niranjana Singh and Jaswant Singh. Out of them, accused Jit Singh died during the trial of the case. Vide judgment and order dated 21.7.2003, learned Additional Sessions Judge (Adhoc) Fast Track Court, Patiala, convicted the five

appellants whereas remaining seven accused were acquitted of the charges against them. The five appellants were convicted under Section 148 IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs. 200/- each and in default of payment of fine, to further undergo rigorous imprisonment for one month. Appellant Om Parkash @ Omi was further convicted under Section 326 IPC whereas remaining appellants were convicted under Sections 326/149 IPC and sentenced to undergo rigorous imprisonment for four years and to pay a fine of Rs. 1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for six months. Appellant Balbir Singh was further convicted under Section 325 IPC whereas the remaining appellants were convicted under Sections 325/149 IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs. 200/- each and in default of payment of fine to further undergo rigorous imprisonment for one month. Appellant Om Parkash @ Omi was also convicted under Section 324 IPC and the remaining appellants were convicted under Sections 324/149 IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.200/- each and in default of payment of fine, to further undergo rigorous imprisonment for one month. All the appellants were further convicted under Sections 323/149 IPC and sentenced to undergo

rigorous imprisonment for three months and to pay a fine of Rs.100/- each and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days. All the sentences of imprisonment imposed upon the appellants were ordered to run concurrently.

Learned counsel for the appellants have not challenged the impugned judgment of conviction passed by the learned trial Court. However, they have submitted that the parties are closely related to each other. The appellants have been facing the agony of criminal prosecution for the last more than fifteen years. On the side of the appellants, Om Parkash @ Omi, Gurdial Singh, Balbir Singh and Prem Singh had also received the injuries. All the appellants are sole bread winners of their respective families. The appellants are on bail pursuant to the orders passed by this Court in the month of March, 2004. There is no material on the record to show that ever since then, they have misused the concession. It is further submitted that each of the appellants has already undergone an actual period of more than seven months besides earning remission of one year. Prayer has, accordingly, been made for setting aside the remaining sentences of imprisonment of the appellants.

Learned State counsel as well as learned counsel for the complainant have vehemently opposed the prayer made by

the appellants by submitting that the appellants had caused serious injuries including grievous injuries to the complainant party. Learned State counsel has, however, produced the custody certificates which indicate that each of the appellants had undergone an actual period of more than seven months besides earning remission of one year and twenty days.

Having heard learned counsel for the parties and taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the appellants behind the bars, once again, to undergo their remaining sentences of imprisonment. Ends of justice would be met suitably by setting aside their remaining sentences of imprisonment. At the same time, the sentence of fine of Rs.1,000/- imposed upon each of the appellants under Section 326 IPC can be enhanced to Rs.25,000/- so that the same may be paid to the injured persons, as compensation.

Resultantly, the conviction of the appellants as recorded by the trial Court is upheld. The substantive sentences of imprisonment imposed upon the appellants on each count are hereby reduced to the one already undergone by them. The sentence of fine of Rs.1,000/- imposed upon appellant Om Parkash @ Omi for the offence under Section 326 IPC and upon Balbir Singh, Surinder Pal, Gurmail Singh and Raja under

Sections 326/149 IPC is enhanced to Rs.25,000/- each and in default of payment of fine, they shall undergo rigorous imprisonment for one year. The sentences of fine imposed upon the appellants for the remaining offences along with their default clauses are maintained. The appellants shall deposit the entire amount of fine within a period of three months from today. Out of the same, an amount of Rs.1,20,000/- shall be disbursed to injured Gurwinder Singh, Janta Singh, Niranjana Singh and Jaswant Singh in equal shares, as compensation.

The appeal is, accordingly, disposed of.

January 22, 2016
amit rana

(T.P.S. MANN)
JUDGE