

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

Crl. Appeal S-2090-SB of 2003
Date of Decision : August 26, 2016

Surinder Singh @ Kala

.....Appellant

VERSUS

State of Punjab

.....Respondent

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

Present : Mr. J.B.S.Gill, Advocate

Mr. Jangsher Singh Bhullar, Deputy A.G., Punjab

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

Instant appeal was filed by Surinder Singh @ Kala-appellant for challenging the judgment and order dated 4.11.2003 passed by learned Additional Sessions Judge (Adhoc), Hoshiarpur.

Vide impugned judgment and order, the trial Court convicted and sentenced the appellant, as mentioned below:-

Conviction

Sentence

Under Section 326 IPC

Rigorous imprisonment for two years and to pay a fine of Rs. 1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one month;

Under Section 333 IPC	Rigorous imprisonment for two years and to pay a fine of Rs. 1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one month; and
Under Section 353 IPC	Rigorous imprisonment for one year.

All the sentences were ordered to run concurrently. The period of detention during investigation and trial was ordered to be set off against his substantive sentence.

According to the prosecution, on the night intervening 14/15.9.2000, Surjit Singh, Forest Guard posted in the area of Barooti, Kiran Kumar, Forest Guard of Chohal and Harbilas, a daily wager of Forest Department were patrolling in the jungle in the area of Barooti. While they were passing through the jungle in the area of Barooti at about 4.00 a.m., they found one Tata Sumo vehicle of white colour parked there. They heard the noise of cutting of trees from the jungle. When they went towards that side, they saw five persons armed with gandasis and daat cutting khair trees with the intention to steal the same. Complainant-Surjit Singh restrained them from cutting the trees. One of them armed with a gandasi tried to inflict a blow on his head with the intention to kill him but he warded off the blow with his left hand and in this way he sustained

injury in between the index finger and the middle finger as a result of which bone was fractured. The said assailant was later on learnt to be Surinder Singh. He was apprehended at the spot itself whereas the other four managed to escape in the Tata Sumo. While apprehending the appellant, the officials had to cause some injuries to him.

Subsequently, the other four accused were also arrested. All five of them were charged for committing the offences under Sections 148, 307/379/333/353/149 IPC. However, at the trial, the four co-accused of the appellant were acquitted whereas the appellant was convicted and sentenced, as mentioned above.

Learned counsel for the appellant submits that he does not challenge the impugned judgment of conviction passed by the trial Court whereby the appellant stood convicted of the charges under Sections 326, 333 and 353 IPC. He, however, submits that the appellant is facing the agony of criminal prosecution for the last about sixteen years. The injury attributed to him, though declared to be grievous, was on the non-vital part i.e. in between the index finger and middle finger of the left hand of complainant-Surjit Singh. It is also submitted that during the investigation of the case, the appellant was also medico-legally examined and three injuries were noticed on his person. Injury No.1 was an incised wound on the left side of the scalp, injury No.2 was a diffused swelling on the left index finger whereas injury No.3 was complaint of pain in right ankle

with swelling around lateral malleolus. It is also submitted that the appellant is not a previous convict. He has already undergone a period of about ten days. He is on bail for the last about thirteen years. There is no material on the record that he has misused the concession of bail in any manner. Prayer has, accordingly, been made for setting aside his remaining sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the appellant had interfered and obstructed in the discharge of official duties by complainant-Surjit Singh and Kiran Kumar, who were posted as Forest Guards at the relevant time. Further, the appellant had used a gandasi in inflicting an injury on the left hand of complainant-Surjit Singh which resulted into a fracture. He was arrested at the spot itself. Learned State counsel has, however, drawn the attention of the Court to the custody certificate already brought on record as per which the appellant had undergone an actual period of nine days during the trial of the case and upon his conviction and sentence by the trial Court, he was granted interim bail so as to enable him to challenge his conviction and sentence by filing an appeal.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellant behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if his remaining sentence of

imprisonment is set-aside. At the same time, the fine imposed upon him for the offence under Section 326 IPC can be enhanced so as to suitably compensate complainant-Surjit Singh.

Resultantly, the conviction of the appellant under Sections 326, 333 and 353 IPC is upheld. His remaining substantive sentences of imprisonment on all the counts are set-aside. The fine of Rs.1,000/- imposed upon him for the offence under Section 333 IPC alongwith its default clause is maintained. The fine of Rs. 1,000/- imposed for the offence under Section 326 IPC is, however, enhanced to Rs.15,000/-. The enhanced amount of fine be deposited by the appellant before the Chief Judicial Magistrate, Hoshiarpur within three months from today, failing which he shall be required to undergo rigorous imprisonment for six months. The enhanced amount of fine, if deposited by the appellant shall be disbursed to complainant-Surjit Singh as compensation.

The appeal is, accordingly, disposed of.

August 26, 2016
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No