

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

CRR No. 1710 of 2007 (O&M)

Date of decision: 03.03.2016

Dilbagh Singh and another

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: Hon'ble Mr. Justice P.B. Bajanthri

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

Present: Mr. Himmat Singh Advocate and
Mr. Tarundeep Kumar, Advocate for
Mr. D.S. Pheruman, Advocate for the petitioners.

Mr. Yogesh Gupta, AAG, Punjab.

P.B. Bajanthri, J.

The petitioners have challenged the judgment dated 10.07.2006 passed in criminal case No. 87/03.07.1999/12.06.2004 passed by the Judicial Magistrate Ist Class, Amritsar and judgment dated 21.07.2007 passed in Criminal Appeal No. 49 of 2006-07 passed by the Additional Sessions Judge, (Adhoc) Fast Track Court, Amritsar the Judicial Magistrate sentenced both the petitioners as under:-

- i) Accused Dilbagh Singh is sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- and in default of payment of fine, he shall further

undergo rigorous imprisonment for a period of one month under Section 324 of the IPC.

ii) Accused Balkar Singh is sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.200/- and in default of payment of fine, he shall further undergo rigorous imprisonment for a period of one month under Section 324/34 of the IPC.

2. Brief facts of the case is that there is rift between two sets of family members namely Dilbagh Singh and Balkar Singh (petitioners). Balbir Singh and his children namely Harpal Singh (injured)/victim and Gurjinder Singh (brother of injured) in respect of storing manure by the petitioners in the field of victim. On 12.03.1999, the petitioners stated to have clashed with victim and his other members of the family. During the free fight Ist petitioner at the instigation of 2nd petitioner threw acid on the victim-Harpal Singh thereby caused multiple injuries on the victim-Harpal Singh. Balbir Singh gave a complaint on 12.03.1999. The same was investigated and FIR was filed on 31.03.1999 against the petitioners under Section 307 read with Section 34 of IPC in FIR No. 42, dated 12.03.1999 Police Station Sarai, Amanat Khan.

3. On 03.07.1999 challan was filed and the case was committed to Sessions Judge, Amritsar on 23.08.1999. On 04.10.1999 the Sessions Judge, Amritsar held that offence is not made out under Section 307 IPC. Consequently, the matter was referred back to Judicial Magistrate Ist Class, Amritsar. On 10.07.2006 Ist petitioner was sentenced under Section 324 of IPC and the 2nd petitioner was sentenced under Section 324/34 of IPC.

4. Aggrieved by the judgment dated 10.07.2006 of Judicial

Magistrate Ist Class, Amritsar, appellants preferred criminal appeal before the Sessions Judge, Amritsar. On 21.07.2007 Sessions Judge, Amritsar confirmed the sentence ordered by the Judicial Magistrate Ist Class, Amritsar. Thus, the petitioners have presented this CRR.

5. Learned counsel for the petitioners submitted that there is a delay in filing FIR as is evident from the record that the alleged incident is dated 12.03.1999 whereas FIR was filed on 31.03.1999. It was further contended that there is discrepancies in the evidence adduced by the prosecution witnesses as is evident from the deposition of PW1 and PW2. It was also contended that no independent witness is examined. Even though, some of the witnesses were cited. Therefore, trial Court judgment is to be set aside so also judgment passed in criminal appeal.

6. Learned counsel for the petitioners submitted that the alleged incident relates back to the year 1999. They have been sentenced on 10.07.2006. The Ist petitioner has already undergone 10 months and 25 days in the prison so also the 2nd petitioner has undergone 7 months 4 days. Having regard to the delay in deciding the criminal appeal it was contended that they be released on probation. In view of the totality of the circumstances, it was argued that lenient view be taken in the matter.

7. Learned State counsel while opposing the plea of the counsel for the petitioners submitted that there is no delay in registering FIR since the matter was under investigation. The same has been taken note of and appropriately dealt by the trial Court while assigning reasons. It is further contended by the State counsel having regard to the opinion of the PW1- Dr. Chander Mohan Medical Officer that the victim-Harpal Singh suffered acid injuries. Even though, they are stated to be simple however the burn

injuries is due to the pouring acid by the Ist petitioner at the instigation of the 2nd petitioner. It is submitted that trial Court has taken very lenient view in sentencing. Therefore, it is argued to not to interfere with the judgment of the trial Court which is in order as evidence and records have been taken into consideration while sentencing the petitioners.

8. Heard learned counsel for the parties.

9. Victim-Harpal Singh suffered 9 injuries which is evident from the evidence of PW1-Dr. Chander Mohan. The evidence adduced before the trial Court is reproduced herein:-

“State versus Dilbagh Singh

*PW1 Dr. Chander Mohan, Medical Officer, PHC, Kasel. On
SA.*

*That on 12.03.1999 I examined Harpal Singh son of
Balbir Singh 20 years r/o Kals and Found following injuries:*

- 1. Ist degree burn alongwith cococola coloured staining of the skin of front of the chest and abdomen alongwith slight redness of margin. No scorching and vesination of skin present. No singering of hair present trickling present.*
- 2. Ist degree burn alongwith cococola staining 10x6 cm on the interior surface of left forearm with redness of margin. No vaccination, no scorching of skin present. No singering of hair present, trickling present.*
- 3. Ist degree burn alongwith cococola staining of skin of interior surface of neck alongwith redness of margin of skin, no vaccination, no scorching of skin present. No singering of hair present.*
- 4. Ist degree burn alongwith cococola staining of skin of interior surface of left upper arm alongwith redness of margin, no vaccination,*

scorching of skin present, trickling present.

5. Lacerated wound 1-½ x ½ cm on the lower lip in its right lateral side placed obliquely, bleeding alongwith first degree burn and staining of adjoining skin present, redness of margin present, no singering of hair present.

6. Fracture of right central and lateral upper incisor present corresponding to injury no. 5 kept under observation and advised X-ray.

7. Ist degree burn alongwith cococola staining of skin of interior surface of left thigh alongwith redness of margin, no scorching, no vescination of skin, no singering of hair present.

8. Ist degree burn alongwith cococola staining of intero surface of left lower leg alongwith margin, no singering of hair, no vescination.

9. Ist degree burn alongwith staining of the skin of left side of back of abdomen 5x5cm in size, no scorching, no vescination of skin present.

All the injuries except no. 6 were kept under observation subject to progress and healing of wound injury no. 6 is kept under observation and advised X-ray. Approximately duration of the injuries were within six hours. All the injuries except no. 5 and 6 were caused by corrosive material while injury no. 5 and 6 were caused by blunt weapon.

Later on 19.03.1999 according to healing and progress of injury no. 1 to 9 except injury No.6 were declared as simple while according to Dental X-ray report No. 1/GS/3/99 PHC Kasel by Dr. G.S.Madan, Dental Surgeon, PHC Kasel, injury no. 6 was declared as simple.

I have brought the original MLR. Correct carbon copy of the same is Ex. PW1/A is my own hand and bears my signature. I also made endst. on application dated 15.03.1999 which is my own hand and bears my signature

same is Ex. PW1/B on the basis of X-ray report and healing and progress of injuries, my report is Ext.PW1/C which is my own hand and bears my signature. I also made endst. Ext.PW1/D which is my own hand and bears my signature on the application of ASHO PS Sarai Amanat Khan.

XXXXXXX NIL opportunity given.

RO &AC

JMIC 5.9.03”

10. No doubt the doctor has given his opinion that injuries are simple. However, acid has been used in causing injuries. The acid is dangerous substance which can harm human body in disfiguring various parts of body. Therefore, opinion of the doctor that injuries are simple cannot be taken lightly. Having regard to the evidence adduced by the prosecution and the statement under Section 313 Cr.P.C. by the accused there is no discrepancies as contended by the petitioner's counsel.

11. Learned counsel for the petitioner submitted that there is a delay in filing FIR. The alleged incident has taken place on 12.03.1999 and the FIR was filed on 31.03.1999. The matter was investigated between the aforesaid period. However, one cannot lost sight of the complaint of Balbir Singh dated 12.03.1999. Therefore, delay would not be a hurdle in the proceedings.

12. Having regard to the date of alleged incident i.e., 12.03.1999, sentencing the petitioner on 10.07.2006, confirmation of sentence by the Sessions Judge dated 21.07.2007 read with actual period undergone by them in the prison and physical and mental agony faced by the victim-Harpal Singh. His family members are entitled to victim compensation.

13. Acid attack/violence is the deliberate use of acid to attack another human being. The acid has a devastating effect on the human body.

Every day tasks such as working are rendered extremely difficult if not impossible. Cause severe physical, psychological and social scarring and victims are often left with no legal recourse, limited to medical or psychological assistance, and without the means to support themselves. Hence victim compensation is to be awarded.

14. The petitioners are real brothers they are directed to pay victim compensation of Rs. 1 Lac within 3 months from the date of this order. The said amount is to be deposited in the Court of CJM, Amritsar. The amount shall be disbursed to the victim-Harpal Singh or to his family members at the earliest. Accordingly, the sentence already undergone by each of the petitioner/accused in the sentence awarded to them; each of the petitioner/accused shall however pay compensation of Rs. 50,000/-which is to be disbursed to victim or to his family members in default of payment of compensation, they would undergo SI for one year. This compensation shall be remitted within 4 months.

15. Appeal disposed of in the above terms.

3rd March, 2016
pooja saini

(P.B.BAJANTHRI)
JUDGE