

As per the prosecution case, on 21.8.2006, complainant Kuldip Singh was coming to his house after paying obeisance in Khadoor Sahib Gurudwara. At about 8:00 AM, when he reached near his house, accused Partap Singh and Rana, armed with sword, Babbu, armed with dang, Bimla empty handed confronted him in front of his house. Bimla raised exhortation to catch hold of the complainant. Partap Singh gave a sword blow, which hit on the thumb of right hand of the complainant.

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Rana also gave sword blow, which hit on the finger of left hand of the complainant. Complainant Kuldip Singh fell down. Partap Singh gave another sword blow, which hit on the left knee joint of left leg of the complainant. Babbu and Partap thereafter gave blows with their respective weapons on the left knee joint of left leg of the complainant. Ambo and Simro, mother and sister-in-law of the complainant respectively intervened to save the complainant. Then, Rana gave a sword blow twice to Ambo, which hit on her right arm and near her chin. Accused Babbu gave a dang blow to Ambo, which hit below the knee joint of her left leg. Accused Partap Singh gave a sword blow from its reverse side to Simro (sister-in-law), which hit on her forehead. All the petitioners were accordingly convicted for substantive offences under Sections 323, 324, 326 IPC. In the appeal, the judgment of conviction and order of sentence dated 7.5.2012, passed by the learned Chief Judicial Magistrate, Tarn Taran, was upheld.

At the motion stage, the notice was issued to the State only qua the role of Bimla alias Kulwant Kaur (petitioner No. 3 herein) and the liability of the remaining three petitioners, namely, Rana alias Randhir Singh, Babbu alias Jasbir Singh and Partap Singh under Section 34 IPC and also on the quantum of sentence.

I have heard the learned counsel for the petitioners, the learned State counsel and have also carefully gone through the file.

It comes out that Bimla alias Kulwant Kaur was stated to be empty handed and she was attributed exhortation only. She did not participate in the crime. When the other accused came armed with swords and dangs, that would mean that they had come ready to commit the crime. Therefore, possibility of Bimla alias Kulwant Kaur being falsely implicated

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cannot be ruled out. Therefore, the benefit of doubt is given to Bimla alias Kulwant Kaur and she is acquitted of the charges framed against her under Sections 323, 324, 326 IPC.

Now, coming to the remaining question of attraction of Section 34 IPC and the quantum of sentence, I am of the view that specific injury under Section 323 IPC is attributed to accused Babbu alias Jasbir Singh, that would mean that accused Babbu alias Jasbir Singh is to be convicted under Section 323 IPC, whereas accused Rana alias Randhir Singh and Partap Singh are also to be convicted for offences under Section 323 IPC read with Section 34 IPC. The specific injury under Section 324 IPC is attributed to accused Rana alias Randhir Singh and Partap Singh. Therefore, they are rightly convicted under Section 324 IPC, whereas accused Babbu alias Jasbir Singh is to be convicted under Section 324 IPC with the aid of Section 34 IPC. The specific injury under Section 326 IPC is attributed to accused Rana alias Randhir Singh and Partap Singh. Therefore, their conviction under Section 326 IPC is to be maintained, whereas accused Babbu alias Jasbir Singh is to be convicted under Section 326 IPC read with Section 34 IPC. The judgments of both the Courts below stands modified to the said extent.

Now, coming to the quantum of sentence, the sentence of rigorous imprisonment for 4 months and 9 months have been awarded under Sections 323 and 324 IPC read with Section 34 IPC respectively, in which no interference is called for. So far as the offence under Section 326 IPC is concerned, the injuries show that there was partial amputation of right thumb of complainant Kuldip Singh, which is attributed to accused Partap Singh. Injury No. 2 is 13 cm x 2 cm with inter digital muscles cut

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of left hand of first digit (thumb), 5 cm of skin on the dorsal aspect was intact. Therefore, keeping in view the nature of injuries, I am the view that the sentence of rigorous imprisonment for two years under Section 326 IPC is adequate in such circumstances. It being so, the revision qua Bimla alias Kulwant Kaur (petitioner No. 3) is allowed and she stands acquitted of the charges framed against her. She be released forthwith, if not required in any other case, whereas the present revision qua accused Rana alias Randhir Singh, Babbu alias Jasbir Singh and Partap Singh stand dismissed with the abovenoted modification regarding conviction.

(KULDIP SINGH)
JUDGE

25.5.2016

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