

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

**Criminal Appeal S-319-SB of 2000
Date of Decision: January 19, 2017**

Arjan Dass and others	Versus	Appellants
State of Haryana and another		 Respondents

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

Present : Mr. H.P.S. Ishar, Advocate
for the appellants.

Mr. Praveen Bhadu, Asstt. A.G., Haryana
for respondent No.1-State.

Mr. Mohan Singh Chauhan, Advocate for
Mr. R.S. Bains, Advocate
for respondent no. 2.

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

The appellants were tried for committing offences punishable under Sections 323/325/148/149 IPC. Vide judgment and order dated 24.3.2000, learned Additional Sessions Judge, Sirsa, convicted them for the aforementioned offences and sentenced them to undergo imprisonment as under:-

- (i) rigorous imprisonment for six months each under
Section 323 read with Section 149 IPC;

- (ii) rigorous imprisonment for three years and to pay a fine of Rs.500/- each under Section 325 read with Section 149 IPC; and
- (iii) rigorous imprisonment for six months each under Section 148 IPC.

The trial Court also directed that the sentences would run concurrently. Fine imposed was deposited by the appellants there and then.

Aggrieved of their conviction and sentences, the appellants filed the present appeal, which stood admitted.

The case of the prosecution is that Arjan Dass accused had suffered a Civil Court decree dated 4.3.1996 in favour of complainant Satnam Singh with regard to land measuring 11 kanals 8 marlas. Though the complainant came in possession of the land as owner on the basis of the decree yet Arjan Dass accused filed another suit challenging the aforementioned decree on the ground that it had been obtained fraudulently. Due to this, all the appellants had a grudge against the complainant.

It is also the case of the prosecution that on 3.2.1995 at about 7.00 p.m., the complainant was returning home after supplying milk in the society. When he reached in front of the house of one Gopi Ram, Arjan Dass accused and his co-accused

Pritam Singh, Jeet Singh, Balkar Singh, Mukhtiar Singh and Chhinda were found standing by the side of the wall. After seeing the complainant, Arjan Dass proclaimed that he be taught a lesson for getting the land decreed in his favour. In the meantime, his co-accused also appeared on the scene. Chhinda and Mukhtiar Singh caught hold of the complainant whereas Arjan Dass and Pritam started giving fists and slap blows besides dragging the complainant towards the house. The complainant raised an alarm which attracted his nephew Pritam Singh to the spot, who was armed with a lathi fitted with an iron patti. He tried to rescue the complainant from the clutches of the accused. However, Jeet Singh and Balkar Singh gave blows of gandasas from the reverse side on the right arm and shoulder of Pritam Singh, who also gave a lathi blow on the person of Balkar Singh accused in his defence. The occurrence was witnessed by Harnam Singh and Gajjan Singh, who had also appeared at the spot. Thereafter, the accused fled away from the spot while carrying their respective weapons. Pritam Singh was brought to Primary Health Centre, Rania, where he was medico-legally examined. As the accused were influential persons, the police did not take any action at the instance of the complainant against them. Left with no other option, the complainant instituted a private criminal complaint.

It is further the case of the prosecution that after recording preliminary evidence, the Ilqa Magistrate summoned the accused for facing trial. Upon their appearance, the case was committed to the Court of Sessions, being cross-case of the case initiated against the complainant party at the instance of Balkar Singh.

At the trial of the case, the prosecution examined four witnesses.

PW1 Dr. Y.K.Chaudhary, deposed that on 3.2.1995 at 11.30 p.m., he medico-legally examined Pritam Singh, nephew of complainant Satnam Singh and found following injuries on his person:-

- “1. Long contusion of 20 cm x 2 ½ cm on back and upper part of right shoulder, horizontally and lateral part of upper arm in upper part. Reddish in colour. X Ray was advised.
2. Long contusion of 15 cm x 2 ½ on the right forearm in lower 2/3rd on lateral dorsal aspect with swelling and tenderness, crepitus was present on lateral side. The contusion was red in colour. X-ray was advised.”

PW2 Satnam Singh complainant deposed about the manner, in which, the occurrence had taken place. His testimony

was duly corroborated by PW3 Harnam Chand, who was attracted to the place of occurrence on hearing the alarm raised by the complainant. PW4 Pritam Chand, nephew of the complainant who was said to have reached the spot on hearing the alarm raised by the complainant and had also received the injuries on his person, corroborated the testimonies of PW2 Satnam Singh and PW3 Harnam Chand.

When examined under Section 313 Cr.P.C., all the accused denied the allegations of the prosecution levelled against them. Arjan Dass accused took the plea that he was belaboured by complainant Satnam Singh, his nephew Pritam Singh as well as by Ram Singh, Mohinder Singh and Bhagwan Singh. He also stated that when his son Balkar Singh came there to rescue him, he was also caused multiple injuries by complainant Satnam Singh and others.

In their defence, the accused examined two witnesses.

DW1 Dr. Mohar Singh, tendered the copy of bed head ticket of Balkar Singh as Ex.DA.

DW2 Dr. Dharminder Singh deposed that he had medico-legally examined Balkar Singh on 3.2.1995 and found the following injuries on his person:-

“1. An incised wound which was 6 x 1 ½ cm

oblique in direction. Bone deep on the middle of the scalp. Fresh bleeding was present. Advised X-ray.

2. An incised wound which was 2 x 1 cm on the lateral side (parietal region left side) bone deep. Fresh bleeding was present. Advised X-ray.
3. Laceration at the middle side of the right index finger which was 2 x 1 ½ cm. Skin was absent. Fresh oozing of blood was present.”

The accused also tendered in defence the certified copy of the report under Section 173 Cr.P.C. as Ex.DB, copy of site plan as Ex.DC and the reports of Forensic Science Laboratory as Ex.DD and Ex. DD/1.

After hearing learned counsel for the parties and on going through the evidence available on the record, the trial Court convicted and sentenced the accused, as mentioned above.

After hearing learned counsel for the parties and on going through the evidence with their able assistance, this Court finds that the prosecution has been successful in bringing home the guilt of the appellants. The ocular account of the occurrence by way of testimony of PW2 Satnam Singh is duly corroborated by PW3 Harnam Chand and PW4 Pritam Singh. The injuries received by PW4 Pritam Singh were reflected in the medico-legal

report prepared by PW1 Dr. Y.K.Chaudhary while examining him on 3.2.1995 at 11.30 p.m. It has also come on the record that the two injuries found on the person of Pritam Singh were subjected to radiological examination and vide report Ex.PB, PW1 Dr. Y.K.Chaudhary had found fracture of right clavicle and right radius bones. It has also come on the record that Civil Court decree stood granted in favour of complainant Satnam Singh but later on, Arjan Dass appellant, who had suffered the said decree had challenged the same on the ground that it had been obtained fraudulently. As such, the appellants had the motive to commit the crime. In view of the above, no case is made out for any interference in the impugned judgment of conviction passed by the learned trial Court.

As regards the question of sentence, it may be mentioned here that the appellants are facing the agony of criminal prosecution for the last about twenty two years. While being heard on the quantum of sentence as required under Section 235 Cr.P.C., the appellants had stated that they were first offenders; they belonged to one family; and, having minor children to support. The said stand taken by the appellants was not challenged by the complainant party. The appellants have been convicted and sentenced for the offences, which are punishable with imprisonment upto seven years. Under these

circumstances, this Court finds that the sentences of the appellants can be set-aside and, instead, the appellants can be released on probation.

Resultantly, the impugned judgment of conviction passed by the learned trial Court is upheld. The sentences of imprisonment imposed upon the appellants by the learned trial Court are set-aside. Instead, the appellants shall furnish bonds to the satisfaction of the Chief Judicial Magistrate, Sirsa, within a period of three months from today to keep peace and be of good behaviour for a period of one year and to receive sentences as and when called upon to do so. The fine imposed upon them by the learned trial Court which stood paid, shall be treated as costs of proceedings. At the same time, it is observed that the appellants shall not suffer any disqualification attaching to their conviction in terms of Section 12 of the Probation of Offenders Act, 1958.

The appeal is, accordingly, disposed of.

January 19, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No