

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

**Criminal Appeal S-1157-SB of 2004
Date of Decision: November 15, 2017**

Viresh Chander and another	Versus	Appellants
State of Punjab		 Respondent

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

Present : Mr. Navjot Singh, Advocate
as amicus curiae for the appellants.

Mr. V.G. Jauhar, Senior Deputy A.G., Punjab.

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

The appellants, namely, Viresh Chander and Baljinder Singh @ Somi were tried for committing offences punishable under Section 307 read with Section 34 IPC. Vide judgment and order dated 15.5.2004, learned Additional Sessions Judge (Adhoc) Fast Track Court, Hoshiarpur convicted them for the aforementioned offence and sentenced them to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/- each and in

default of payment of fine, to further undergo rigorous imprisonment for three months. The period of detention during investigation and trial was ordered to be set off against their sentences.

Aggrieved of their conviction and sentence, the appellants filed the present appeal, which was admitted on 28.5.2004. Subsequently, vide order dated 27.8.2004, this Court suspended their sentences of imprisonment.

According to the prosecution, on 19.9.2002 complainant Rajdeep Kaur was coming back home from her college on her cycle and when she was a little short of Primary School, Dagana Kalan and time was about 3.00 p.m., Jaspal Singh accused armed with kirpan and Viresh Chander and Baljinder Singh @ Somi accused came on the road. Jaspal Singh at that time was riding a horse. On seeing the complainant, Jaspal Singh got down from the horse and Baljinder Singh @ Somi held the horse. Viresh Chander caught hold of her cycle. The complainant got down from the cycle. Jaspal Singh raised a lalkara that if she did not agree with his proposal, he would eliminate her. Jaspal Singh inflicted blows with his kirpan hitting the complainant on right side of her neck near the ear and another blow near her right eye. In order to save herself, she raised her arms and the blow landed on her left palm. She raised

an alarm, which attracted Sukhdeep Singh and her uncle Hans Raj to the spot. On seeing them coming, the accused ran away from the spot. The motive behind the occurrence was that Jaspal Singh wanted to have friendship with the complainant but she did not agree to his proposal. About five months before the occurrence he had teased her but at that time his father apologized before the Panchayat.

In support of the ocular account of the occurrence, the prosecution had examined complainant Rajdeep Kaur as PW5 and Harbans Lal @ Hans Raj as PW6. On going through their testimonies, this Court finds that they have deposed in unequivocal terms that it was Jaspal Singh, who after raising a lalkara had caused injuries to complainant Rajdeep Kaur. The medical evidence by way of testimonies of PW1 Dr. Satpal Singh, PW2 Dr. Gurbachan Singh, PW3 Dr. Ram Parkash Saroa, PW4 Dr. Surinder K. Gangar and PW12 Dr. J.S. Dhami further lends independent corroboration to the prosecution case. After conducting thorough investigation in the case, the police had submitted challan against the appellants. Under these circumstances, no case is made out for any interference in the impugned judgment of conviction passed by the learned trial Court.

Coming to the question of sentence, it may be noticed

that the appellants are facing the agony of criminal prosecution for the last more than fifteen years. Jaspal Singh, the main accused in the case has already served the entire sentence of imprisonment imposed upon him as is apparent from the custody certificate produced by the learned State counsel. Further, neither Viresh Chander nor Baljinder @ Somi had caused any injury to the complainant. While Baljinder Singh @ Somi accused was said to have caught hold of the horse of Jaspal Singh accused. Viresh Chander accused had caught hold of the cycle which the complainant was riding at the relevant time. No other overt act was attributed to anyone of them.

As per the custody certificates produced by the learned State counsel, both the appellants have undergone an actual period of nine months and twenty two days. None of them is shown to be either involved or convicted in any other case.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellants behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice shall be suitably met, if their substantive sentence of imprisonment is reduced to the one already undergone by them.

Resultantly, the conviction of the appellants under Section 307 read with Section 34 IPC is upheld. Their substantive

sentence of imprisonment is reduced to the one already undergone by them. The sentence of fine alongwith its default clause is maintained.

The appeal is, accordingly, disposed of.

November 15, 2017
amit rana

(T.P.S. MANN)
JUDGE

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