

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

**Criminal Appeal S-1656-SB of 2004
Date of Decision: October 23, 2017**

Binder Singh and another	Versus	Appellants
State of Punjab		 Respondent

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

Present : Mr. A.P. Kaushal, Advocate
for the appellants.

Mr. Jagjit Singh Chatrath, Advocate
as legal aid counsel for the appellants.

Mr. Gaurav Garg Dhuriwala, Sr. D.A.G., Punjab.

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

The appellants were tried for committing offences punishable under Sections 307/34 IPC. Vide judgment and order dated 10.8.2004, learned Additional Sessions Judge, Barnala, exonerated them of the charge under Section 307 IPC but while convicting them under Section 326 IPC, sentenced them to undergo rigorous imprisonment for three years and to pay a fine of Rs.2,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for three months. They were also

convicted under Section 326 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.2,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for three months. All the sentences were ordered to run concurrently. The period already spent by them behind the bars during investigation and trial was ordered to be set off.

According to the prosecution on 6.11.1999, complainant Darshan Singh alongwith Kartar Singh was returning on a scooter from village Dhanaula to their village Kahneke. It was the complainant, who was driving the scooter whereas Kartar Singh was on its pillion seat. At about 2.00 p.m., when they reached near the sugarcane field of one Jangir Singh, both the appellants while armed with gandasas came out of the said field. While absuing, they surrounded the scooter of the complainant. As a result, the complainant and Kartar Singh fell down from the scooter. Labh Singh while abusing the complainant raised a lalkara that the complainant would be taught a lesson for constructing the drain. He gave a gandasa blow, which hit on the head of the complainant. As a result, the complainant fell on the ground. Binder Singh gave a gandasa blow upon the complainant. Labh Singh gave another gandasa blow. Both the appellants gave further blows with the gandasa to the

complainant.

After going through the evidence and hearing learned counsel for the parties, the learned trial Court accepted the prosecution version. However, the appellants were exonerated of the charge under Section 307 IPC. Instead, they were convicted and sentenced under Section 326 and Sections 326/34 IPC, as mentioned above.

It was complainant Darshan Singh, who had received the injuries in the occurrence. Said Darshan Singh while stepping into the witness box as PW3 described in detail about the occurrence, in which, he had received injuries at the hands of the appellants. His testimony is fully supported by PW4 Kartar Singh. The medical evidence further corroborates the ocular account. After conducting thorough investigation, the police had come to the conclusion that the appellants were the ones, who had caused injuries to the complainant. Under these circumstances, no case is made out for any interference in the conviction of the appellants, as recorded by the learned trial Court.

As regards the question of sentence, it may be noticed that the appellants are facing the agony of criminal prosecution for the last about eighteen years. Though complainant Darshan Singh received as many as fourteen injuries on his person, yet out of them, only three injuries were declared

to be grievous. These three injuries were on the non-vital parts of the complainant. The appellants claim themselves to be first offenders.

As per the custody certificate produced by the learned State counsel, both the appellants have already undergone an actual period of two months and six days. It has also been mentioned therein that they were proceeded against under Sections 107/151 Cr.P.C. but they stood discharged by the competent authority vide order dated 9.12.1999. The appellants are presently on bail and there is no allegation that they have misused the concession of bail in any manner.

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 sentences of imprisonment are reduced to the one already undergone by them. At the same time, the fine of Rs.2,000/- imposed upon each of them for the offence under Section 326 IPC can be suitably enhanced so as to disburse the entire fine amount to complainant Darshan Singh, as compensation.

Resultantly, the conviction of the appellants under Section 326 and also under Sections 326/34 IPC is upheld. Their

substantive sentences of imprisonment are reduced to the one already undergone by them. The fine of Rs.2,000/- imposed upon each of them for the offence under Section 326 IPC is enhanced to Rs.10,000/- each whereas fine of Rs.2,000/- imposed upon each of them under Section 326 read with Section 34 IPC alongwith its default clause is maintained. The enhanced fine of Rs.10,000/- imposed upon each of them for the offence under Section 326 IPC shall be deposited in the Court of learned Chief Judicial Magistrate, Barnala, within three months from today, failing which, they shall be required to undergo rigorous imprisonment for three months. The entire amount of fine when recovered from or deposited by the appellants shall be disbursed in favour of complainant Darshan Singh as compensation.

The appeal is, accordingly, disposed of.

October 23, 2017

amit rana

**(T.P.S. MANN)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No