

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

CRA-S-No.1713-SB OF 2004
DATE OF DECISION :1st NOVEMBER, 2017

Jeet Ram & others

.... Appellants

Versus

State of Haryana

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Vinod K. Kanwal, Advocate for
 Mr. Ashit Malik, Advocate for the appellants.

Mr. Chetan Sharma, AAG, Haryana.

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A. B. CHAUDHARI, J. (Oral)

Being aggrieved by the judgment and order dated 14.01.2004 passed in Criminal Complaint Case No.133 of 2003 filed under Sections 148, 323, 324 & 506 read with Section 149 of IPC at Police Station Ismailabad, District Kurukshetra, the present appeal was filed by the appellants.

Heard learned counsel for the rival parties.

Learned counsel for the appellants vehemently argued that the judgment and order of conviction of the appellants for the offence under Sections 148, 323, 324 & 506 read with Section 149 of IPC, is perverse. According to him the trial Court made a mistake in convicting the appellants by recording finding which are perverse and not based on evidence. He further submitted that the trial Court thus committed an error in recording conviction against the appellants.

None appeared for the complainant-respondent.

The trial Court has recorded a categorical finding in para 12 of the judgment, which I quote the same as under:

“12. After evaluating the arguments of both the Advocates and evidence of both the parties in State case and complaint case. I have held that complaint of Balwant Singh party is not time barred nor it is forged and fabricated nor it is false. When the police did not hear them, they had no alternative with them except to file the complaint. The complaint is within the period of limitation. The version of the complainant is true, so far as fight between the two groups is concerned on the point of Khal and accused party Jeet Ram etc. have been held to be aggressors by me because of detailed reasons in case State versus Prem Chand etc. However, after thorough examination of evidence, I found that accused Raj Pal and Bhushan were not present on the spot on the date of occurrence. Therefore, they were acquitted. Only Jeet Ram Ram, Balwinder and Sat Pal have been held to be guilty for the offences punishable under Sections 323, 324 IPC read with Section 506 IPC being the aggressor party. Therefore, there is hardly any necessity to discuss the evidence and arguments in details as done by them in State versus Prem Chand etc. case this being a

cross case. Therefore, after hearing the learned counsels for the complainant and learned defence counsel & after perusing the evidence, I am of the view that prosecution has proved its case beyond reasonable doubt only against Jeet Ram, Balwinder Singh and Sat Pal, so far as the offences under Section 323, 324 IPC read with Section 506 IPC are concerned. Therefore, they are held guilty for the commission of abovesaid offences.”

The said finding is based on evidence, therefore, the trial Court had not convicted all the accused persons before it, the trial Court however convicted the appellants only. At any rate the trial Court thereafter did not sentence the appellants but ordered their release on probation under Section 360 Cr.P.C. In my opinion, the sentence has not been awarded to the appellants and they have been released on probation by taking recourse under Section 360 Cr.P.C. which discretion seems to be legal and correct.

In that view of the matter, there is no need to interfere with the impugned judgment on any count. In the results, I make the following order:

ORDER

- (i) CRA-S-No.1713-SB OF 2004 is dismissed.

1st NOVEMBER, 2017
‘raj’

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:

Yes

No

Whether Reportable:

Yes

No