

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

**Criminal Appeal S-1876-SB of 2004
Date of Decision: December 5, 2017**

Balbir @ Billa	Versus	Appellant
State of Punjab		 Respondent

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

Present : Mr. H.S. Thiara, Advocate
for the appellant.

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

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

The appellant, namely, Balbir @ Billa alongwith Babbi @ Raj Kumar was tried for committing offences punishable under Sections 307, 324 and 34 IPC. Vide judgment and order dated 17.9.2004, learned Additional Sessions Judge, Jalandhar convicted Babbi @ Raj Kumar under Section 307 and sentenced him to undergo rigorous imprisonment for five years and to pay a fine of Rs.2,000/- whereas the appellant was convicted under Sections 307/34 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.1,000/- and in

default of payment of fine, to further undergo rigorous imprisonment for four months. Babbi @ Raj Kumar was also convicted under Section 324 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for three months whereas the appellant was convicted under Sections 324/34 IPC and sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs.200/- and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days. Both the sentences were ordered to run concurrently. The fine imposed was deposited by the appellant there and then.

According to the prosecution, on 9.6.2002, complainant Desh Raj and his brother Prem Pal were present in the village street, when one Karo, who was a tenant of the appellant, came there. Prem Pal told Karo that he used to drag his wooden bed and the legs (supports) of the bed would get broken and, accordingly, asked him not to do so in future. Karo felt annoyed and told Prem Pal that he would give perras to his cattle and, accordingly, his cattle would stop giving milk. The complainant and his brother went back to their houses at about 10 p.m. On the same day, the complainant came out in the street when he was told by his neighbour Kartar Chand that Karo had

given perras to their buffaloes, but when they asked Karo about the same, he denied having given perras. Prem Pal told Karo that if anything happened to their cattle, he would be responsible. In the meantime, Balbir @ Billa, who was empty handed and Babbi @ Raj Kumar, who was carrying a knife in his hand came there. Balbir @ Billa caught his brother Prem Pal from behind whereas Babbi @ Raj Kumar gave two blows with the knife, hitting at his stomach and right arm. Blood started coming out of the wounds. The alarm raised by the complainant party attracted the persons of locality at the spot. On seeing them, both the accused ran away from the spot.

Learned counsel for the appellant has not challenged the impugned judgment of conviction passed by the learned trial Court. However, he has submitted that the appellant is facing the agony of criminal prosecution for the last more than fifteen years. In the occurrence in question, he was not attributed causing of any injury. The only role attributed to him was of catching hold of Prem Pal injured from behind. The injuries, which were found on the person of Prem Pal were attributed to Babbi @ Raj Kumar accused. It is also submitted that the appellant has three sons, one daughter and a wife to look-after and in case he is sent to jail, his family would be ruined. It is also submitted that he is neither involved nor convicted in any other case. Out of the sentence of

two years imposed upon him, he has already undergone a period of four and half months. Therefore, a lenient view be taken in the matter of his sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that it was the appellant who caught hold of the injured and facilitated the attack upon him and, thus, no leniency needs to be shown in the matter of sentence of imprisonment. However, he has produced the custody certificate, as per which, he has already undergone an actual period of four months and ten days. He is not shown to be either involved or convicted in any other case.

Having heard learned counsel for the parties and on perusing the impugned judgment and order, this Court finds that no useful purpose will be served by sending the appellant behind the bars, once again, for undergoing the remaining sentence of imprisonment. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the appellant under Section 307 read with Section 34 IPC and Section 324 read with Section 34 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs.1,000/- imposed upon him for the offence under

Sections 307/34 IPC is, however, enhanced to Rs.5,000/- and in default thereof, he shall undergo rigorous imprisonment for four months. The sentence of fine for the offence under Section 324 read with Section 34 IPC alongwith its default clause is maintained. The enhanced amount of fine be deposited by him in the Court of Chief Judicial Magistrate, Jalandhar, within three months from today.

The appeal is, accordingly, disposed of.

December 5, 2017

amit rana

(T.P.S. MANN)

JUDGE

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