

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. S-2186-SB of 2005

Date of Decision : November 08, 2017

Bachittar Singh and others

.....Appellants

VERSUS

State of Punjab

.....Respondent

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

Present : Mr. Tarunveer Vashist, Advocate for the appellants.

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

Mr. Ajay Pal Singh, Advocate for the complainant.

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

The appellants, namely, Bachittar Singh, Jagroshan Singh, Harsimran Singh @ Kaka Singh, Manjeet Singh, Sukhbir Singh and Swaran Singh, alongwith Gurpreet Singh and Joginder Singh were tried for committing the offences punishable under Sections 148, 307, 326, 325, 324, 323, 450 and 149 IPC. Vide judgment and order dated 29.11.2005, learned Additional Sessions Judge, (Ad hoc), Fast Track Court, Sangrur acquitted Gurpreet Singh and Joginder Singh accused of the charges against them. The appellants were convicted and sentenced as under :-

- (i) All the appellants to undergo rigorous imprisonment for one year each under Section 148 IPC;
- (ii) Bachittar Singh appellant under Section 307 IPC, whereas the remaining appellants under Sections 307/149 IPC to undergo rigorous imprisonment for four years and to pay a fine

of Rs.1,000/- each and in default of payment of fine, to undergo rigorous imprisonment for one month;

(iii) Swaran Singh appellant under Section 324 IPC, whereas the remaining appellants under Sections 324/149 IPC, to undergo rigorous imprisonment for one year each;

(iv) Harsimran Singh @ Kaka Singh appellant under Section 325 IPC, whereas the remaining appellants under Sections 325/149 IPC to undergo rigorous imprisonment for one year and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo rigorous imprisonment for 15 days;

(v) Harsimarn Singh @ Kaka Singh appellant under Section 323 IPC and the remaining appellants under Sections 323/149 IPC to undergo rigorous imprisonment for six months each;

(vi) Manjeet Singh and Jagroshan Singh appellants under Section 324 IPC, whereas the remaining appellants under Sections 324/149 IPC to undergo rigorous imprisonment for one year each;

(vii) Sukhbir Singh appellant under Section 323 IPC

and the remaining appellants under Sections 323/149 IPC to undergo rigorous imprisonment for six months each; and

(viii) All the appellants to undergo rigorous imprisonment for one year each under Section 450 IPC.

All the sentences awarded to them were ordered to run concurrently. The period of detention, if any, already suffered by them during inquiry, investigation and trial of the case was ordered to be set off against the terms of sentences awarded to them.

Aggrieved of their conviction and sentences, the appellants filed the present appeal which was admitted on 16.12.2005. Subsequently, their sentences were suspended and they were ordered to be released on bail.

According to the prosecution, on 17.2.2002 at about 2.00 p.m., Sukhwinder Singh, Balkar Singh, Sher Singh and Lakhwinder Singh were present in the house of son of their uncle, it being Sunday. At that time, all the appellants alongwith Gurpreet Singh and Joginder Singh came there and caused injuries to Balkar Singh, Sher Singh and Lakhwinder Singh. The motive behind the occurrence was that about two years back Balkar Singh, etc. had a dispute with Joginder Singh and Balkar Singh accused. Though the matter was settled yet the accused still nursed a grudge against the complainant party.

This Court need not to go into the merits of the case for the reason that the parties have amicably resolved their differences and

sorted out the matter. In this regard, miscellaneous application under Section 320 Cr.P.C. was filed by the appellants for compounding the offences on the basis of compromise. In support of their said plea, the appellants placed on record the compromise deed as Annexure A1 and affidavit of complainant Sukhwinder Singh as Annexure A2.

On the last date of hearing and noticing the fact that the appellants claimed to have resolved their differences and amicably settled the matter, this Court directed the three injured, namely, Balkar Singh, Shamsheer Singh @ Sher Singh and Lakhwinder Singh to remain present in the Court for recording their respective statements. Pursuant to the same, they have put in appearance and got recorded their joint statement to the effect that the accused party on the one hand and the complainant on the other are distantly related to each other. They have adjoining lands and at the intervention of the respectables of the village, they have entered into a compromise with the appellants.

One of the offences, i.e. under Section 307 IPC is not lawfully compoundable. However, factum of the parties entering into a compromise can be considered as a mitigating circumstance in determining the punishment, which ought to be imposed upon the appellants. Reference in this regard can be made to the judgment of Hon'ble Supreme Court in **Ishwar Singh Vs. State of Madhya Pradesh**, 2009(1) R.C.R. (Criminal) 1.

The appellants are facing the agony of criminal prosecution for the last more than fifteen years. They are not shown to be either involved or convicted in any other case. As per the custody certificates

produced by the learned State counsel, the appellants have undergone sentences varying from seven months to ten months. Apart from that they have also earned remissions.

Keeping in view the aforementioned facts, 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.

Resultantly, the conviction of the appellants, as recorded by the learned trial Court is upheld. Their substantive sentences of imprisonment are reduced to to the one already undergone by them. The sentences of fine, alongwith their default clauses, are maintained.

The appeal is, accordingly, disposed of.

November 08, 2017
satish

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO