

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

381

**CRA-S-482-SB of 2005 (O&M)
DATE OF DECISION: 06.10.2017.**

Surjit Singh

....Appellant.

Versus

State of Punjab

...Respondent.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Ashish Grover, Advocate for the appellant.

Mr. Karanbir Singh, Assistant Advocate General, Punjab.

SHEKHER DHAWAN, J.

Present appeal is directed against the judgment of conviction and order of sentence dated 12.02.2005 passed by learned Sessions Judge, Bathinda, whereby appellant Surjit Singh was held guilty for commission of offence punishable under Section 324 IPC and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2,000/-. However, the appellant, after trial, was acquitted of the offence punishable under Section 307 IPC.

2. Relevant facts for the purpose of decision of this appeal; that on 16.02.2003, Prithipal Singh was admitted to Civil Hospital, Bathinda in injured condition, where he was medico legally examined and was declared to be unfit to make statement. Subsequently, Prithipal Singh was declared fit to make statement and his statement was recorded on 16.02.2003, wherein

he alleged that the present appellant had demanded a glass from Kaka Singh for taking liquor and on refusal by Kaka Singh, present appellant Surjit Singh took out a *Kirch* from the bag and gave a blow on the left side of his (Kaka Singh) abdomen and his alarm attracted some person who shifted him to the hospital for treatment.

3. On this plea, the investigation commenced. During investigation, accused was arrested and weapon used in the commission of offence was recovered. After completion of investigation proceedings, challan was presented into the Court for trial.

4. During trial, learned Court below completed various proceedings of trial including framing of charges against the accused, recording of statement of the prosecution witnesses as well as examination of accused under Section 313 Cr.P.C. After considering the prosecution evidence and defence version on record, the trial Court held the appellant guilty and convicted him for commission of offence punishable under Section 324 IPC whereas he was acquitted of the offence under Section 307 IPC in the absence of any medical opinion suggesting the injury to be dangerous to life.

5. Aggrieved by the judgment of conviction and the order of sentence, the appellant is before this Court by way of present appeal.

6. Learned counsel for the appellant contended that the appellant has been falsely implicated in this case and, infact, no injury was caused by him but the trial Court has not considered the material evidence available on file. More so, the appellant has already undergone actual sentence of 09 months and 20 days against the awarded sentence of 02 years and he has

already faced much agony of law during protracted litigation of more than 14 years.

7. While arguing on these points, learned State counsel contended that the Court below has already appreciated the entire evidence and the injured had made a specific statement against the appellant that he had caused injuries to him with *Kirch* in his abdomen and seat of injuries being abdomen in itself is 'dangerous of life'. However, the trial Court has already taken a most lenient view and no further leniency is called for. More so, the appellant has not led any defence evidence to controvert the version of the injured-complainant, who had no enmity to depose falsely against the present appellant so as to allow the real culprit to go scotfree. Thus, the appeal be dismissed.

8. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that the prosecution case is based upon the testimony of injured Prithipal Singh, who while appearing as PW1, has stated in so many words that injury was caused to him by the appellant facing trial and weapon of offence used for commission of offence was *Kirch* and seat of injuries was abdomen. The learned trial Judge after appreciating the ocular testimony as well as the medical evidence held the appellant/ accused guilty for commission of offence under Section 324 IPC. There is absolutely no reason to set aside the said finding recorded by way of judgment of conviction of the appellant under Section 324 IPC and as such, the appeal against judgment of conviction is without any merit and same stands dismissed.

9. As regards, the appeal against order of sentence, the appellant

fact that he has faced protracted litigation for more than 14 years, certainly, a lenient view on the quantum of sentence can be taken and as such, the order of sentence is modified to the extent that the sentence of the appellant shall be restricted to the period already undergone by him but the appellant shall make payment of compensation of Rs.50,000/- to injured Prithipal Singh within a period of one month from today and the said payment shall be made before learned trial Judge, who shall submit the compliance report in this regard.

10. Resultantly, the present appeal against judgment of conviction stands dismissed. However, the order of sentence dated 12.02.2015 passed by learned Sessions Judge, Bathinda, is modified to the extent that the sentence of the appellant shall be restricted to the period already undergone by him while remaining in custody during investigation, trial and pendency of the appeal.

11. The appeal stands disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

06.10.2017.

komal

Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No