

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

CRA-S-2040-SB-2017 (O&M)

DATE OF DECISION :- September 28, 2017

Sagandeep Singh and another

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Gursimran Singh Bawa, Advocate for the appellant.

Mr. K.S. Aulakh, DAG, Punjab.

Appellant Jatinder Singh @ Sonu, an accused in F.I.R. No. 168 dated 11.8.2013 for offences under Sections 307/452/324/323/34 of the Indian Penal Code registered at Police Station Jandiala Guru, Amritsar with three more accused named therein i.e. Sagandeep Singh, Satnam Singh, Lakhwinder Singh @ Sonu had been sent up to face trial. However, Lakhwinder Singh @ Sonu died during the pendency of the trial and proceedings against him stood abated, whereas Satnam Singh had jumped bail and was declared a proclaimed offender.

Briefly stated the facts of the case as per prosecution story are that on 11.8.2013 at about 10.30 A.M. when complainant Hira Singh along with his wife Narinder Kaur was present in his house, a jeep was parked in front of the said house. Narinder Kaur went out of the house and requested its owner to move it little away from there then she came inside. After some time, there was knock at the door of the house. When Narinder Kaur opened the door, then she

saw that Sagandeep Singh armed with a Datar, Lakhwinder Singh armed with a Datar along with Satnam Singh to be there. They also trespassed in the house. Sagandeep Singh gave slap to wife of the complainant. When complainant protested then Sagandeep attacked him with Datar causing him injury on head. Lakhwinder Singh attacked complainant with Datar with an intention to kill him but complainant sat down. Jatinder Singh attacked the complainant with Datar hitting him on head. Complainant fell down. Satnam Singh attacked the complainant with Datar hitting him on the wrist. When complainant and his wife raised alarm Mukhtiar Singh, brother of the complainant came there. Neighbours armed with Dangs arrived at the spot. The accused/assailants alighted from the jeep. Sagandep Singh took out a match box from his pocket and set his jeep on fire. Thereafter the accused ran away from the spot after jumping over the wall. The complainant-injured was moved to Civil Hospital, where he was medico legally examined and treated. Information was given to the police. Police party came there. Statement of the complainant-injured was recorded which formed basis for registration of an F.I.R., the accused Satnam Singh and Lakhwinder Singh were arrested in this case, whereas names of Sagandeep Singh and Jatinder Singh were placed in column no. 2, as P.O. proceedings against them were going on.

On filing of challan in the Court of learned Magistrate, he supplied copies of documents relied upon therein to the accused free of cost. Then finding that the accused appeared to have committed the offence under Section 307 IPC which was exclusively triable by the Court of law, the case was committed to the Court of Sessions, Amritsar from where it was assigned to Additional Sessions Judge, Amritsar. Accused facing trial were charge sheeted accordingly. Subsequently supplementary challan was filed against Sagandeep

Singh and Jatinder Singh which was ordered to be attached with the main challan. Accused namely Lakhwinder Singh, Satnam Singh, Sagandeep Singh and Jatinder Singh were charged sheeted for offence under Sections 307/452/324/354 and 34 IPC. Accused pleaded not guilty.

During the course of evidence of prosecution, the prosecution examined PW1 Hira Singh-complainant, who provided the eyewitness account supporting the prosecution story. His wife PW2 Narinder Kaur also deposed in consonance with the prosecution story. PW3 Harjit Singh also provided the ocular version corroborating the prosecution case so did PW4 Mukhtiar Singh. ASI Buta Singh PW5 who was associated with the investigation deposed regarding his part. PW6 SI Surjit Singh Investigating Officer testified regarding investigation conducted by him.

Regarding accused Jatinder Singh, he stated that he was arrested on 25.1.2014 when he had made a disclosure statement. Sagandeep Singh had also made a disclosure statement, that he had handed over the Datar used in the incident to co-accused Jatinder Singh. Jatinder Singh in disclosure statement stated that he has thrown Datar in the drain. PW7 Dr. Jaspal Singh M.O. C.H.C. Manawal, provided medical evidence deposing about the injuries noted down by him on person of Hira Singh on 11.8.2013. PW8 Mrs. Krishna Sharma, Radiographer, C.H.C. Manawal proved endorsement regarding X-Ray.

Statements of accused were recorded under Section 313 Cr.P.C. in which they pleaded innocence. The accused had examined DW1 Harpal and DW2 Daljit. The trial Court had formulated following points for determination :-

A) Whether the prosecution has proved the offence under

Section 307/323/324/452/354/34 IPC against the accused beyond reasonable doubt?

B) Whether the prosecution evidence is contradictory and not reliable?

Vide detailed judgment, the trial Court came to a conclusion that prosecution failed to prove offence under Section 307, 354 IPC against any of the accused, resultantly Sagandeep Singh and Jatinder Singh were acquitted for offence under Sections 307 and 354 IPC. However, it was found that prosecution has proved offence under Sections 324, 323 and 452 IPC against accused Sagandeep Singh and offence under Section 324, 323/34 and 452 IPC against accused Jatinder Singh beyond reasonable doubt. The accused were convicted and vide order of the even date Jatinder Singh was sentenced to undergo rigorous imprisonment for six months and to pay a fine of ₹1,000/- and in default of payment of fine to undergo rigorous imprisonment for 15 days as regards sentence under Section 324 IPC, for offence under Section 323/34 IPC to undergo rigorous imprisonment for three months and to pay a fine of ₹500/- and in default of payment of fine to undergo rigorous imprisonment for 7 days. For offence under Section 452 to undergo rigorous imprisonment for one year and to pay a fine of ₹1,000/- and in default of payment of fine to undergo rigorous imprisonment for 15 days. All the sentences were ordered to run concurrently. Jatinder Singh along with Sagandeep Singh had filed appeal before this Court. However, appeal filed by Sagandeep Singh since been dismissed as withdrawn for the reason that he had failed to surrender in the trial Court despite there being no order passed by this Court granting him bail and suspending his sentence. Whereas, the only appellant left before this Court is Jatinder Singh @ Sonu.

Learned counsel for the appellant states that he does not challenge the judgment passed by the trial Court on point of conviction but as regards the sentence part, he prays that a sympathetic view in the matter be taken. Since Jatinder Singh @ Sonu is in custody for about 8 months and 29 days (say about 9 months). He has further contended that Jatinder Singh @ Sonu is of young age of 28 years, he is unmarried and he does not have any past criminal record.

Learned counsel for the State has opposed his request. However, I find that considering the fact that the appellant-convict is of young age and no previous conviction is alleged or proved against him and further out of substantive sentence of one year awarded to him, he has already undergone about 9 months of imprisonment, it would be appropriate and in fitness of thing if the sentence is reduced to one already undergone by him in this case. In that way, impugned judgment is upheld as far as conviction part, whereas regarding sentence part it is modified accordingly. The judgment shall remain intact as regards imposition of fine. The appeal stands disposed of accordingly.

(H.S. MADAAN)
JUDGE

September 28, 2017

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No