

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.S-1995-SB of 2003

Date of Decision : May 11, 2017

Avtar Singh and another

.....Appellants

VERSUS

State of Punjab

.....Respondent

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

Present : Mr. K.P.S. Virk, Advocate
for the appellants.

Mr. Vikram Bishnoi, Assistant A.G., Punjab.

Mr. M.S. Basra, Advocate
for the complainant.

T.P.S. MANN, J.

The appellants, namely, Avtar Singh and his father Hardial Singh were tried for committing offences punishable under Sections 323/324/341/506 IPC. Vide judgment and order dated 13.10.2003, learned Additional Sessions Judge (Ad hoc), Patiala convicted them for the aforementioned offences and sentenced them as below :-

- (i) Avtar Singh under Section 324 IPC whereas Hardial Singh under Sections 324/34 IPC to undergo rigorous imprisonment for two years and to pay a fine of Rs.2,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for two months;
- (ii) Avtar Singh under Section 323 IPC whereas Hardial Singh under Sections 323/34 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 one month;

(iii) Avtar Singh under Section 341 IPC whereas Hardial Singh under Sections 341/34 IPC to undergo rigorous imprisonment for one month each; and

(iv) Avtar Singh under Section 506 IPC whereas Hardial Singh under Sections 506/34 IPC to undergo rigorous imprisonment for three months each.

The sentences imposed upon the appellants on each count were ordered to run concurrently. The fine amount was deposited by them there and then.

Aggrieved of their conviction and sentence, the appellants filed the present appeal, which was admitted on 28.10.2003. Simultaneously, their sentences of imprisonment were suspended and they were released on bail.

According to the prosecution, on 30.6.2000 at about 5.00 p.m., complainant-Kartar Singh, resident of village Nanhera was present in his field situated in the revenue estate of village Harchandpura where appellants Avtar Singh and Hardial Singh, residents of village Harchandpura were ploughing their own field with their tractor. The complainant noticed that the water being splashed by the tractor of the appellants was damaging his paddy crop. Besides, the servant of Hardial Singh was also throwing wheat crop waste with the help of 'Tangli' in his field. The

complainant asked the servant of the appellants not to do so, who, accordingly, stopped doing so. Avtar Singh then told his servant to keep the waste on the watt and after saying so, he went to his house on the tractor. The complainant also returned to his house. Thereafter, the complainant took his son Gurdip Singh and one Jarnail Singh to his field to show them as to what had happened earlier. Before they could reach the field, they noticed that Hardial Singh was sitting on the watt whereas Avtar Singh was ploughing the fields. When they reached there, Avtar Singh picked up gandasi lying on his tractor and gave a blow from its reverse side on complainant's right shoulder and also on his head. Hardial Singh was armed with a pistol, which he aimed towards Gurdip Singh. On the intervention of Jarnail Singh, the complainant was rescued. Hardial Singh was also armed with a khunda. There ensued a scuffle between the complainant and Avtar Singh and as a result, the complainant fell in his paddy field. During the scuffle, he received injuries on his nose. He and his son Gurdip Singh also caused injuries to the appellants in self-defence.

This Court need not go into the merits of the case for the reason that during the pendency of the appeal, the parties have entered into a compromise. However, it may be noticed that Hardial Singh-appellant died during the pendency of the appeal. After seeking an adjournment, learned State counsel placed on record the report prepared by the Station House

Officer, Police Station Ghagga, District Patiala, wherein, it was stated that the factum of Hardial Singh-appellant expiring on 22.6.2011 due to sudden heart failure stood duly verified. The hearing of the appeal was then adjourned in order to record the statement of complainant-Kartar Singh, who was the only one to receive injuries from his side and he was asked to remain present in the Court. On 24.3.2017, complainant Kartar Singh did not put in appearance. However, his son Gurdip Singh and one Jarnail Singh, who was examined by the prosecution as PW3 in support of its case appeared and made joint statement to the effect that during the pendency of the appeal and at the intervention of the members of Panchayat and the respectables, both the parties had entered into a compromise. They admitted their signatures/thumb impressions on the compromise deed dated 15.1.2016, which had already been taken on record. They further stated that complainant-Kartar Singh had also signed the compromise deed as he was alive when the compromise was arrived at between the parties but, later on, he had passed away. Finally, they stated that they would have no objection if any benefit arising out of the compromise was extended to Avtar Singh, the only surviving appellant.

All the offences for which the surviving appellant Avtar Singh stood convicted are not compoundable. However, in view of the judgments of the Hon'ble Supreme Court in Ram Lal Vs. State of Jammu and Kashmir, 2000(1) RCR (Criminal) 92 and

Bankat Vs. State of Maharashtra, AIR 2005 Supreme Court 368, the factum of compromise arrived at between the parties can be taken as a mitigating circumstance while considering the sentence of imprisonment, which the convict should undergo. The surviving appellant is facing the agony of criminal prosecution for the last about seventeen years. The injuries attributed to him were found to be simple in nature. During the occurrence, he had also suffered an injury on the left side of his scalp. The parties are agriculturists by profession and having adjoining lands. The members of the Panchayat and respectables of the villages of the parties have successfully intervened to bring about a compromise between the parties. The compromise deed already stands placed on record, which compromise deed was signed by complainant-Kartar Singh, his son Gurdip Singh and one Jarnail Singh. He is on bail for more than thirteen years. No useful purpose will be served by sending him behind the bars so as to undergo the sentence of imprisonment imposed upon him. Ends of justice shall be suitably met if the sentences of imprisonment imposed upon appellant-Avtar Singh are set aside and, instead, he is ordered to pay fine.

Resultantly, the appeal of Hardial Singh appellant is disposed of as having been abated on account of his death. The conviction of Avtar Singh, the surviving appellant for the offences under Sections 324, 323, 341 and 506 IPC is upheld. The sentences of imprisonment imposed upon him are set aside.

Instead, he shall pay an amount of Rs.10,000/- as fine for the offence under Section 324 IPC, Rs.2,000/- for the offence under Section 323 IPC, Rs.1,000/- for the offence under Section 341 IPC and Rs.500/- for the offence under Section 506 IPC. The fine amount already imposed upon him by the trial Court and duly deposited for the offences under Sections 324 and 323 IPC, i.e. Rs.2,000/- and Rs.500/-, respectively shall be adjusted against the fine amount now imposed upon him by this Court under Sections 324 and 323 IPC. The enhanced amount of fine for the offences under Sections 324 and 323 IPC as well as the fine imposed upon him for the offences under Sections 341 and 506 IPC be deposited by him with the learned Chief Judicial Magistrate, Patiala within three months from today, failing which he shall undergo simple imprisonment for three months. His appeal is, accordingly, disposed of.

May 11, 2017
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned : YES/NO

Whether reportable : YES/NO