

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

CRR No.1922 of 2010 (O&M)

Date of decision : 27.04.2017

Rishal Singh and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mrs. S.K. Mamli, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana

JITENDRA CHAUHAN, J. (Oral)

The present petition has been filed for setting aside the judgment dated 09.07.2010, passed by learned Addl. Sessions Judge-II, Fatehabad, whereby the appeal filed by the petitioners against the judgment of conviction and order of sentence dated 26.07.2007 and 31.07.2007, respectively, has been dismissed.

The facts of the case as noticed in the judgment passed by the trial Court are as under:-

“Briefly stated facts by the prosecution are that on 26.05.98 complainant Dalbir Singh suffered a statement

that at 7.30 a.m. he along with his father was present in their fields. His uncle Sita Ram Rishal Singh along with his cousins Rajender Singh and Joginder Singh having gandasis in their hands came there. Accused Maina Devi and Savitri Devi having lathis in their hands also came at the spot along with above named co-accused. Accused Sita Ram gave a gandasi blow on the right side of the head of his father, when he tried to intervene accused Rishal Singh gave a gandasi blow on the left side of his head. Accused Rajender also inflicted gandasi blow whereas accused Jogender having gandasi in his hand inflicted another blow on the right side of the head of his father. Both complainant and his father fell down on the ground, thereafter accused Savitiri Devi and Maina Devi gave blows of lathis on their person. Accused Savitiri Devi gave curter lathi blow to the complainant, accused Rajender further gave a lathi blow on the left side of the complainant. Accused Savitiri Devi and Maina Devi further gave blows upon the person of the complainant with the help of lathis. Both of them raised an alarm here-in-which Kuldeep brother of the complainant and Bhagwan Dass cousin of the complainant came there and on seeing them accused left the spot. Complainant and his father to unconscious and brought to the hospital for medical examination by Ram Kumar son of Mohar Singh, medical ruqa was sent to the SHO P.S. Sadar Fatehabad, who recorded the statement of the complainant Ex.P1.”

The learned counsel for the petitioners states that there is an

unexplained delay of four hours in lodging the FIR; no independent witness has been joined by the prosecution; Bhagwan Dass and Kuldeep Singh, who were alleged to be present on the spot, have not been examined; and there are material improvements in the statement of prosecution witnesses. Thus, the impugned judgments are liable to be set aside.

On the other hand, the learned State counsel opposes the present petition and submits that there are specific allegations against the petitioners in the alleged scuffle that the petitioners, armed with *gandasis* and *lathis* attacked and caused injuries to the complainant and his father.

I have heard the learned counsel for the parties and carefully perused the entire record on file.

In the instant case, while the complainant and his father were working in the field, the petitioners armed with *gandasis* and *lathis* attacked them and caused injuries to them. As per the version of the prosecution witnesses, duly corroborated with the medical evidence i.e. MLRs and x-ray of the injured, the injured have suffered the injuries from blunt and sharp edged weapons. Moreover, PW4-Dr. J.S. Grewal, has opined that there was a fracture on the vertex of skull of injured Ram Chander, father of the complainant. The learned counsel

for the petitioners is unable to controvert this factual aspect of the matter. Therefore, this Court feels that the findings recorded by the Courts below cannot be said to be perverse or contrary to the material on record. In fact the impugned order and judgments were passed after appreciating the entire facts and circumstances of the present case and no other view is possible.

Accordingly, the present petition is hereby dismissed.

27.04.2017

ashok

**(JITENDRA CHAUHAN)
JUDGE**

Whether speaking/reasoned:

Yes / No

Whether reportable:

Yes / No