

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 13.9.2017

CRR No. 2747 of 2016 (O/M)
Parminder Singh

..... Revisionist

Versus

State of Punjab

..... Respondent

CRR No. 3280 of 2016 (O/M)
Baljinder Singh

..... Revisionist

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Mandeep Kaushik, Advocate, for revisionist
in both the cases.

Ms. Monika Jalota, DAG Punjab.

Mr. Rajesh Verma, Advocate, for complainant.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J.

This order will dispose of CRR No. 2747 of 2016, titled as Parminder Singh Versus State of Punjab and CRR No. 3280 of 2016, titled as Baljinder Singh Versus State of Punjab, arising out of the same judgment.

The prosecution case, which is based on the statement of Balwinder Kaur, wife of Gurmit Singh, is that on 14.2.2006, Balwinder Kaur accompanied by her husband Gurmit Singh was going to their fields. Gurmit Singh stopped at the shop of one Ghole and Balwinder Kaur went little ahead. It was about 5:15 PM. When Balwinder Kaur reached near the

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motor of Baljinder Singh (accused), Baljinder Singh (accused) abused Balwinder Kaur. When Balwinder Kaur restrained him from doing so, Baljinder Singh went to his house near the motor and brought a sword and gave blow of sword to her. When in order to save herself, Balwinder Kaur raised her left hand, the sword hit the left hand thumb of Balwinder Kaur (complainant). Parminder Singh son of Balwant Singh, who is nephew of Baljinder Singh, gave dang blows on the left arm of Balwinder Kaur. Parkash Kaur, wife of Balwant Singh, gave kick blows on the abdomen of Balwinder Kaur. Binder Kaur wife of Parminder Singh gave fist blows on the chest of complainant. Balwinder Kaur (complainant) raised alarm, which attracted Sucha Singh, resident of Village Saini Majra, who came to the spot and rescued the complainant and also witnessed the occurrence. Gurmit Singh removed Balwinder Kaur to Civil Hospital, Kurali. The motive for the crime was that the wife of Baljinder Singh had gone to her parental house and Baljinder Singh used to suspect that the mind of his wife was poisoned by the complainant. Therefore, they attacked the complainant.

On receiving wireless intimation from Police Station Kurali about admission of injured Balwinder Kaur in Civil Hospital, Kurali, ASI Baba Singh of Police Station Mullanpur, visited Civil Hospital, Kurali, and recorded the statement of injured (Ex.PW1/A) and made endorsement at 11:05 AM on 15.2.2006 that from the MLR, no cognizable offence is made out so far. Therefore, he went back to the police station and recorded a DDR (Ex.DA) at 12:15 on 15.2.2006. Since one of the injuries was found to be grievous in nature, therefore, FIR No. 0014 was registered on 20.2.2006 under Section 325 IPC read with Section 34 IPC at Police Station Kurali

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against all the four accused. After the investigation, challan was presented in the Court. The trial Court chargesheeted all the four accused under Sections 325, 324, 323 IPC read with Section 34 IPC.

To substantiate her case, complainant Balwinder Kaur herself appeared as PW1 and examined her husband Gurmit Singh (PW2). Two of the eye witnesses, namely, Sucha Singh (PW3) and Bant Singh (PW4) were also examined, who turned hostile. Dr. Meenakshi was examined as PW9 in addition to the investigating officer and formal witnesses.

When examined under Section 313 Cr.P.C., accused pleaded that they are innocent. They have not committed any offence and have been falsely implicated in this case. The accused did not lead any defence.

The learned Additional Chief Judicial Magistrate, Rupnagar, vide judgment of conviction dated 7.11.2015, convicted all the four accused, namely, Baljinder Singh, Parminder Singh, Parkash Kaur and Binder Kaur under Sections 325, 323 IPC read with Section 34 IPC and sentenced them, vide order of sentence dated 7.11.2015, as under :-

<u>Name of Convict</u>	<u>U/s</u>	<u>Sentence</u>
Parminder Singh	325 IPC	To undergo RI for a period of one year and to pay fine of Rs. 500/-. In default of payment of fine to further undergo RI for 15 days.
1. Baljinder Singh 2. Parkash Kaur 3. Binder Kaur	325 r.w.s. 34 IPC	To undergo RI for a period of one year each and to pay fine of Rs. 500/- each. In default of payment of fine to further undergo RI for 15 days each.
1. Parkash Kaur 2. Binder Kaur	323 IPC	To undergo RI for a period of six months each.
1. Baljinder Singh 2. Parminder Singh	323 r.w.s. 34 IPC	To undergo RI for a period of six months each.

All the sentences were directed to run concurrently.

All the aforesaid convicts preferred appeal before the Sessions

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Court, Rupnagar, who, vide judgment dated 12.7.2016, upheld the judgment of conviction of the trial Court. So far as the sentence part of the judgment is concerned, the learned Sessions Judge, Rupnagar, released Parkash Kaur and Binder Kaur on probation.

Before this Court, Baljinder Singh and Parminder Singh have preferred separate revisions, which will be disposed of by this single judgment.

I have heard the learned counsel for revisionists, the learned State counsel, the learned counsel for complainant and have also carefully gone through the file and the lower Court's file as well.

While appearing in the Court, Balwinder Kaur has reiterated her statement made before the police. While deposing, she stated that when her husband Gurmit Singh had stopped at a shop and she had gone little ahead, Baljinder Singh started abusing her. When she restrained him from doing so, he took out a sword from his house and gave sword blow, which landed at her left hand thumb. Parminder Singh gave a danda/dang blows on left arm. She also repeated the role attributed to Parkash Kaur and Binder Kaur.

So far as PW3 Sucha Singh (eye witness) is concerned, he turned hostile and did not support the prosecution case. Another eye witness Bant Singh (PW4) also turned hostile. Now left is the testimony of Gurmit Singh, husband of complainant, who was at some distance on a shop, stated that he saw the occurrence from the shop. He made a general statement that his wife was beaten up by all the four accused without specifically attributing each and every injury, as stated by his wife. During his cross examination, he stated that he is a driver with the Home Secretary, Punjab, and daily comes to home. He admitted that he is facing a trial on the

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complaint of Baljinder Singh (accused). He further admitted that Kurali is at a distance of 15 kilometers from his house, whereas Mullanpur Government hospital (again stated dispensary) is at a distance of 4 kilometers from his house and PGI is at a distance of 8 kilometers.

It is also necessary to enumerate the injuries noticed by the doctor, which are reproduced as under :-

“Injuries

1. Grevilinear laceration appx 5 cm x 0.5 cm skin deep on the anterior side of left hand thumb fresh bleeding present.
2. C/O pain in the left forearm. Diffuse swelling appx. 8.10 cm x 3.4 cm on posterior side of left forearm. Adv. X-Ray Exam.
3. C/O pain lower abdomen. No injury marks/swelling.
4. C/O pain in chest back region. No injury marks/no swelling seen.”

As per the MLR, the injured had arrived at the hospital on 14.2.2006 at 6:50 PM, whereas the occurrence is stated to have taken place around 5:15 PM. The statement of Dr. Meenakshi (PW9) is also material. Injury on the left forearm on radiological examination was found to be fracture of Shaft of Ulna, vide report dated 17.2.2006 (Ex.PW9/C) and, therefore, grievous in nature. Other injuries No. 3 and 4 were found to be simple in nature. As pr the MLR (Ex.PW9/A), the kind of weapon used was blunt. The doctor stated that possibility of injury No. 1, 3 and 4 being caused with friendly hands cannot be rule out.

Now, the statement of Balwinder Kaur shows that Baljinder Singh is stated to have given the blow of sword, which landed on her left hand thumb. However, the corresponding injury Grevilinear laceration

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approx. 5 cm x 0.5 cm is skin deep. Injury No. 1 is stated to have been caused with a blunt weapon. It is not an incised wound. Therefore, the statement of complainant that it was caused with a sword/kirpan blow is not corroborated by medical evidence. Both the Courts below failed to appreciate that the role attributed to Baljinder Singh is not supported by medical evidence.

Keeping in view the background that on the statement of Baljinder Singh, a case was already going on with Gurmit Singh, husband of complainant, the possibility of false implication of Baljinder Singh cannot be ruled out particularly when the role attributed to him is not supported by medical evidence. Therefore, the revision of Baljinder Singh is liable to accepted.

Now, coming to the case of accused Parminder Singh, it comes out that he is alleged to have given a dang/danda blows on the left arm of complainant, which corresponds to injury No. 2, which was found to be a fracture, vide report dated 17.2.2006 (Ex.PW9/C). Such injury cannot be self suffered. Therefore, the role attributed to Parminder Singh is duly supported by medical evidence.

The learned counsel for revisionists has argued that there was an inordinate delay in recording the FIR.

I am of the view that the occurrence is alleged to have taken place around 5:15 PM. After the occurrence, the complainant was immediately removed to a hospital at a distance of 15 kilometers i.e. Kurali Civil Hospital and arrived there at 6:50 PM and was immediately examined by the doctor. Her statement was also recorded by the police on the next morning after receiving intimation from the hospital. Therefore, the delay,

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if any, in reaching the hospital is on the part of police and not on the part of the complainant and no benefit can be given to accused Parminder Singh on this account. The remaining two accused, namely, Parkash Kaur and Binder Kaur have already been released on probation. They have not filed any revision. Therefore, this Court will refrain itself from discussing their role in the occurrence. The mere fact that two of the eye witnesses, namely, Sucha Singh (PW3) and Bant Singh (PW4) had turned hostile, is no ground to disbelieve the prosecution case against accused Parminder Singh, particularly when the injury attributed to him is not a self suffered nor caused with friendly hands. There was enmity between the parties, which is duly proved.

As a result of the foregoing discussion, I am of the view that the injury attributed to Baljinder Singh (revisionist) is not supported by medical evidence. Therefore, Baljinder Singh is given benefit of doubt and he is acquitted of the charges framed against him. Therefore, revision (CRR No. 3280 of 2016), filed by Baljinder Singh is allowed. I do not find any merit in the revision, filed by Parminder Singh. Accordingly, revision qua Parminder Singh (CRR No. 2747 of 2016) stands dismissed. He (Parminder Singh) be re-arrested and committed to jail to undergo the remaining part of sentence.

(KULDIP SINGH)
JUDGE

13.9.2017
sjks

Whether speaking / reasoned : Yes

Whether Reportable : No