

CRR-1988 of 2017 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRR-1988 of 2017 (O&M)  
Date of Decision: 07.10.2017

Sukha Singh @ Sukhdev Singh and others  
....Petitioners

Versus

State of Punjab  
....Respondent

**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present: - Ms. Satwant Mehta, Advocate, for the petitioners.  
Mr. Randeep S. Khaira, AAG, Punjab.

**RAMENDRA JAIN, J.**

Custody certificates, filed in Court today, are taken on record.

Challenge in this revision petition has been laid to the judgment dated 15.02.2017 of the First Appellate Court as well as the judgment of conviction and order of sentence dated 19.03.2015 of the trial Court holding the petitioners guilty and sentencing them as under: -

|                                            |                                                                                                                                                                                     |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Under Section 326 read with Section 34 IPC | Rigorous imprisonment for two years each and to pay a fine of ₹ 500/- each and in default of payment of fine to further undergo simple imprisonment for a period of one month each. |
| Under Section 323 read with Section 34 IPC | Rigorous imprisonment for six months each.                                                                                                                                          |

Both the sentences have been ordered to run concurrently.

Briefly stated, complainant Hardial Singh lodged FIR No.37 dated 04.04.2008 under Sections 324, 323 and 34 IPC at Police Station Goindwal

Shahib that around 7:30 p.m. on 30.03.2008, he was proceeding towards his village on foot from his guava garden. When he reached near “Peer Hasana

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Hur”, all of a sudden, Sukha Singh armed with a sword, Sonu armed with a stick and Goga armed with a stick appeared there. Sukha Singh raised lalkara to teach him a lesson and inflicted him two sword blows. The first one hit on the left side of his head and the other hit on left muscle of his arm. Then, Sonu gave a stick blow which hit on his left thigh. Thereafter, Goga gave a stick blow which hit on the left side of his back. He raised an alarm “mar ditta mar ditta”. Gurbinder Singh and Sandeep Singh, who were coming in a car from the village side, saved the complainant from the clutches of the abovesaid persons.

After completion of all formalities, final report under Section 173 Cr.P.C. was presented against the petitioners before the trial Court.

Copies of challan were supplied to the accused under Section 207 Cr.P.C. free of costs and thereafter the accused were charge-sheeted under Sections 326/323 read with Section 34 IPC.

The trial Court, after recording the prosecution evidence and the statement of the petitioners under Section 313 Cr.P.C., putting entire incriminating material came on the record against them and hearing both the sides, held the petitioners guilty and convicted them in the manner, as narrated in the opening part of the judgment. In appeal also, the petitioners remained unsuccessful.

Learned counsel for the petitioners contends that there is delay of five days in lodging the FIR, which causes a serious dent in the prosecution story. Non-production of the x-ray report in the Court qua injuries to Hardial Singh is fatal to the prosecution story inasmuch as in the absence thereof, the petitioners have wrongly and illegally been convicted and

Learned State counsel vehemently opposed the prayer made in the

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revision and supported the judgments passed by the Courts below submitting that the prosecution has fully proved its case on the basis of ocular and documentary evidence produced on the record against the petitioners and they have rightly been convicted and sentenced.

I have given anxious consideration to the submissions made by learned counsel for the parties.

Though there is a delay of five days in lodging the FIR, but the same cannot be a ground for disbelieving and discarding the entire prosecution story as the same has fully been explained by the prosecution. The incident took place on 30.03.2008. On receiving the information regarding the occurrence, SI Amrik Singh went to Amandeep Hospital, Amritsar for recording the statement of injured Hardial Singh and moved two applications (Ex.PW4/B dated 31.03.2008 and Ex.PW4/C dated 01.04.2008). However, upon both the applications the doctor attending the injured opined that injured was unfit for making his statement. Therefore, statement of the injured could be recorded on 04.04.2008 and FIR was registered.

So far as the contention of learned counsel for the petitioner with regard to non-production of x-ray report is concerned, same is misconceived. Dr. Ravi Mahajan, Plastic Surgeon was examined by the prosecution as PW5, who has fully proved the prosecution case. He has deposed that on 30.03.2008 injured Hardial Singh son of Swarn was admitted to the hospital vide registration No.3770-03-08 with the diagnoses of injuries sustained by him on his scalp and left ear. He was operated upon for these injuries on 31.03.2008 and discharged on 06.04.2008. He has

proved the cash memo Ex.PW5/A and attested copy of concerned admission register page Ex.PW5/B. In view of the testimony of this witness, it can

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safely be concluded that non-production of x-ray report in the Court qua injuries to injured Hardial is not fatal to the case of the prosecution. No other contention has been raised by learned counsel for the petitioners.

I have gone through the judgments of both the Courts below recording concurrent findings and see no illegality or perversity in the same. Consequently, the same are affirmed and revision petition is dismissed.

**October 07, 2017**  
R.S.

**(Ramendra Jain)**  
**Judge**

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| Whether speaking/reasoned | Yes/No |
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| Whether Reportable | Yes/No |
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