

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

**CRR 3542-2017 (O&M)
Date of decision: 07.11.2017**

Harjit Singh and another

.....Petitioners

versus

State of Punjab

.....Respondent

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Karambir Singh Nalwa, Advocate for the petitioners

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J.

Present petition has been filed against the judgment dated 1.9.2017, passed by the learned Additional Sessions Judge, SAS Nagar, Mohali affirming judgment of conviction and order sentence dated 15.6.2016, passed by the learned Judicial Magistrate Ist Class, Kharar, vide which the petitioners were convicted under Sections 323, 325, 341 and 506 read with Section 34 of IPC and sentenced as under:-

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default</i>
<i>323 read with Section 34 IPC</i>	<i>RI of 01 year</i>	<i>Rs.1000/-</i>	<i>RI of 30 days</i>
<i>325 read with Section 34 IPC</i>	<i>RI of 03 years</i>	<i>Rs.3000/-</i>	<i>RI of 30 days</i>
<i>341 read with Section 34 IPC</i>	<i>RI of 01 year</i>	<i>Rs.500/-</i>	<i>RI of 30 days</i>
<i>506 read with Section 34 IPC</i>	<i>RI of 01 year</i>	<i>Rs.500/-</i>	<i>RI of 30 days</i>

However, the learned Additional Sessions Judge, SAS Nagar, Mohali modified the sentence as under and directed all the sentences to run concurrently:-

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default</i>
<i>323 read with Section 34 IPC</i>	<i>RI for six months</i>	<i>Rs.1000/-</i>	<i>RI for 30 days</i>
<i>325 read with Section 34 IPC</i>	<i>RI for one year</i>	<i>Rs.3000/-</i>	<i>RI for 30 days</i>
<i>341 read with Section 34 IPC</i>	<i>RI for one year</i>	<i>Rs.500/-</i>	<i>SI for 2 days</i>
<i>506 read with Section 34 IPC</i>	<i>RI for six months</i>	<i>Rs.500/-</i>	<i>RI for 30 days</i>

In nutshell, the prosecution case is that Gurmanpreet Singh injured was in friendly terms with one Ms.Sanampreet. On 20.9.2012, Ms.Sanampreet made a phone call to Gurmanpreet Singh and called him to her house. Gurmanpreet Singh accompanied by his friends Jatinder Singh and Manpreet Singh, went to the house of Ms.Sanampreet in a car bearing registration no.CH-01-AM-8940. It was at about 10.30 p.m., when they reached the rented accommodation of Ms.Sanampreet, they found it locked. While they were coming back, 20-25 persons of the locality gathered there with baseball, sticks and Kirch. Jatinder Singh and Manpreet Singh fled away in the car, whereas Gurmanpreet Singh was caught hold by the said assailants and was given injuries on the head, arm, chest and legs. He fell down on the earth. All the assailants were calling the names of each others. He stated that Ravi and Satnam Singh caused injuries with baseball on his head and legs. Harjeet Singh caused injuries with sticks on his legs and arms. Meena Thapa gave a kirch blow near his left ear. He was also given kick blows by the accused. He raised alarm. Jatinder Singh and Manpreet

Singh also raised alarm, on which, many villagers gathered there, on which, accused fled away from the spot.

Jatinder Singh and Manpreet Singh along with villagers shifted the injured Gurmanpreet Singh to Civil Hospital, Kharar, from where he was referred to PGI, Chandigarh but instead of going to PGI, Chandigarh, he went to Rajindra Hospital, Patiala, where the police approached him and recorded his complaint, which formed the basis of an FIR. Lower Court charge sheeted the accused under Sections 341, 325, 323, 506 read with Section 34 IPC, to which, they pleaded not guilty. Ravi Kumar and Meena Thapa became proclaimed offenders and only Harjit Singh and Satnam Singh, present petitioners faced the trial.

To support the case, Gurmanpreet Singh injured, Jatinder Singh and Manpreet Singh eye witnesses were examined as PW1, PW2 and PW3 respectively. Dr.Rashmeet Kaur as PW4, LC Ravinder Kaur as PW5, retd. ASI Randhir Singh as PW6, Krishan Kumar as PW7, Dr.Pushpinder Singh as PW8 and HC Kesar Singh as PW9. Thereafter, as the prosecution failed to conclude its evidence, the prosecution evidence was closed by order.

I have heard learned counsel for the parties and have also carefully gone through the record.

Learned counsel for the petitioners has argued that in this case, the doctor from Kharar Hospital was not examined to prove MLR. Therefore, MLR is not proved. Only the doctor from Medical College, Faridkot was examined to prove the CT report. Therefore, all the injuries alleged by the complainant are not proved. Statement of Dr.Pushpinder Singh (PW8) shows that on the x-ray examination, he found a fracture of left fibula. Bhushan Kumar, Clerk posted at Rajinder Hospital brought the

bed head ticket of injured Gurmanpreet Singh and proved the same as Ex.PW7/B.

Admittedly, in this case, MLR was not proved as the prosecution evidence was closed by order. However, head injuries were proved from the statement of Dr.Pushpinder Singh (PW8). There was a fracture in the skull bone. Bed head ticket also shows that when the injured was brought to the Rajindra Hospital, Patiala, he reported the history of assault. Injuries are also described therein. Therefore, merely because the doctor from Kharar Hospital was not examined to prove MLR, it cannot be said that the injuries are not proved.

Learned counsel for the petitioners has further argued that in this case there were two eye witnesses, namely, Jatinder Singh and Manpreet Singh. Manpreet Singh was examined-in-chief but was not produced for cross-examination. Therefore, his examination-in-chief is not to be read into evidence. It is further stated that Jatinder Singh did not support the prosecution case and it has been so observed by the lower Court. Therefore, there is no corroboration to the sole testimony of Gurmanpreet Singh. Statement of Jatinder Singh shows that there appears to be some typographical mistake regarding some facts. Gurmanpreet Singh has stated in cross-examination that he cannot say that present accused caused injuries to Gurmanpreet Singh. The occurrence took place in dark. However, Jatinder Singh (PW2) when examination-in-chief has clearly stated that Gurmanpreet Singh was assaulted by 20-25 persons armed with baseball, sticks and kirch. Therefore, the occurrence is established though Jatinder Singh who named Satnam Singh and Ravi, examination-in-chief, made a contradictory statement in cross-examination by saying that he cannot say

whether the present accused, present in Court, caused injuries to Gurmanpreet Singh. It is to be noted that Jatinder Singh was examined in chief on 24.5.2014 and his cross-examination was deferred. His cross-examination was conducted about four months later on 27.8.2014, in which, he stated that he cannot say whether the accused present in Court, caused injuries to Gurmanpreet Singh. It appears that Jatinder Singh has been won over during the intervening period not to name the accused though he has affirmed the occurrence. Therefore, his admission in cross-examination regarding non-involvement of the present accused is to be ignored.

Gurmanpreet Singh (PW1) in his statement has supported the prosecution case. He stated that about 20-25 persons caused him injuries in the stairs. Thereafter, pulled him on the ground. He specifically named the present petitioners, namely, Harjit Singh and Satnam Singh, in the crime.

Learned counsel for the petitioners has contended that there are some discrepancies in the statements of the witness Gurmanpreet Singh. Gurmanpreet Singh was not present when site plan was prepared. He did not see the weapon after the occurrence. He had not given names of all 20-25 persons to the police. It is further contended that the occurrence took place on 20.9.2012 and his statement was recorded by the police on the next night in Rajindra Hospital, Patiala. There is no reason why Gurmanpreet Singh decided to go to Patiala in place of PGI Chandigarh, where all treatment is available.

I am of the view that minor discrepancies are to be ignored. Present petitioners Harjit Singh and Satnam Singh have been specifically named to have given stick and baseball blows on the legs, arms and head of Gurmanpreet Singh injured and there is no scope for fabrication of such

incident. It is to be noted that Gurmanpreet Singh belongs to Bassi Pathana, District Fatehgarh Sahib. There is always heavy rush in PGI Chandigarh. Gurmanpreet Singh had suffered fracture of skull. He was referred by doctor of Civil Hospital, Kharar for further treatment. Therefore, he might have thought it proper to go to Patiala, where he could be properly and promptly attended. Injury on the head is such that it cannot be self inflicted. The occurrence is also natural. Gurmanpreet Singh had gone to see his female friend Sanampreet, who was living in a rented accommodation in the locality. Her accommodation was found locked and the people of the locality assaulted him, probably apprehending some motive on their part to visit Ms.Sanampreet. The delay in lodging the FIR in the circumstances is immaterial. Both the Courts below have held that the occurrence is proved. There was no need of test identification parade, as the present petitioners were named in the FIR. Therefore, the statement of Gurmanpreet Singh is sufficiently corroborated by the statement of eye witness Jatinder Singh and the other documents placed on file. There is no illegality or infirmity in the findings recorded by both the Courts below.

Keeping in view the nature of injuries, there is no ground to reduce the sentence as well. Resultantly, the present revision petition stands dismissed.

07.11.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned: Yes

Whether Reportable: No