

Jatinder and another

... Petitioners

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Rahul Bhargava, Advocate,
for the petitioners.
TEJINDER SINGH DHINDSA, J.(ORAL)

In terms of judgment dated 30.01.2016 recorded by the learned
Judicial Magistrate Ist Class, Jalandhar, the petitioners were held guilty of
the charge for commission of offence under Sections 452, 325, 323, 506,
148, 149 IPC and were sentenced as under:

Name of the Convict	Under Section	Sentence
All the convicts	323 read with Section 149 IPC	To undergo Rigorous imprisonment for a period of six months each and to pay fine of Rs.100/- each and in default of payment of fine to undergo Simple Imprisonment for 15 days each.
All the convicts	325 read with Section 149 IPC	To undergo Rigorous imprisonment for a period of two years each and to pay fine of Rs.100/- each and in default of payment of fine to undergo Simple Imprisonment for 15 days each.
All the convicts	452 read with Section 149 IPC	To undergo Rigorous imprisonment for a period of two years each and to pay fine of Rs.100/- each and in default of payment of fine to undergo Simple Imprisonment for 15 days each.
All the convicts	506 read with Section 149 IPC	To undergo Rigorous imprisonment for a period of one month each and to pay fine of Rs.100/- each and in default of payment of fine to undergo Simple Imprisonment for 15 days each.

All the convicts	148 IPC	To undergo Rigorous imprisonment for a period of one year each and to pay fine of Rs.100/- each and in default of payment of fine to undergo Simple Imprisonment for 15 days each.
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The judgment of conviction and order of sentence stand affirmed vide decision dated 12.10.2016 passed by the learned Additional Sessions Judge, Jalandhar. Resultantly, the instant revision petition against the concurrent conviction of the petitioners and order of sentence as noticed hereinabove.

Briefly noticed FIR No.88 dated 25.09.2010, Police Station Lambra, Jalandhar, under Sections 452, 506, 325, 323, 148, 149 IPC came to be registered on the statement of Naresh Kumar son of Bodh Ram. Complainant asserted that on 24.09.2010 at 9:00 p.m. when he along with his brother Rajesh Kumar and maternal aunt's son Vicky were returning from Lambra to Tajpur Colony on a motorcycle then they were stopped by Jatinder and his brother Kamaljit @ Sonu both sons of Gurmej Singh. These two assailants were accompanied by their relative Jograj @ Joga. They started abusing the complainant party and called upon them to give them money for purchase of liquor. Upon complainant stating that he did not have money, the accused party jostled with him. At that stage, the complainant party fled from the spot leaving their motorcycle behind. Thereafter, at about 10:00 p.m. accused Jograj @ Joga, Jatinder and Kamaljit @ Sonu came to their house armed with heavy wooden sticks. They entered the perimeter wall of the house and started pushing the door of the house of the complainant. The accused party/petitioners herein are then stated to have inflicted injuries upon the complainant. Kamaljit Singh is stated to have given a reverse blow with a *datar* on the wrist of the left arm of the complainant. Jatinder gave a blow with the handle of the spade on the left

cheek of the complainant. Jograj @ Joga gave blow with a base-bat on the right leg of the complainant. They also jointly gave kicks on the back of the complainant. Upon hearing the cries of the complainant, his brother Rajesh Kumar, aunt's son Vicky and mother Shindo rushed to his rescue but the accused party even caused injuries to them. The motive attributed is that even though the complainant party was on friendly terms with the accused party but sometime back there had occurred a fight amongst the parties and on account of which the accused party was nursing a grudge. The situation got aggravated on the account of the complainant having refused to give money for purchase of liquor on the date of occurrence. The complainant as also his family members were taken to Civil Hospital, Jalandhar for providing medical aid. On the basis of statement of the complainant and the injuries shown in the MLR offence under Sections 452, 323, 506, 148, 149 IPC were found to be made out and accordingly, FIR was registered. Upon receipt of report of X-ray examination, offence under Section 326 IPC was also added. During investigation accused party was arrested. Final investigation report/challan was presented before the Court and copies of the same were supplied to the accused free of cost under Section 207 Cr.P.C.

Upon finding a prima facie case, the accused/petitioners herein were charged under Sections 452, 506, 325, 323, 148, 149 IPC and to which they pleaded not guilty and claimed trial. Prosecution while leading evidence, examined complainant Naresh Kumar as PW-1, Shindo mother of the complainant as PW-2, Rajesh Kumar brother of the complainant as PW-3, Dr. Surinder Pal, Medial Officer, Civil Hospital, Jalandhar as PW-4, Dr. Satvinder Singh, Radiologist, Civil Hospital, Jalandhar as PW-5, Tarsem

Singh, Sub Inspector, I.O. of the case as PW-6. Statement of the accused were recorded under Section 313 Cr.P.C. The entire incriminating evidence was put to them. They, however, pleaded false implication. However, accused did not examine any witness in their defence.

After hearing counsel for the parties and upon appreciation of evidence adduced on record, the petitioners stand convicted and sentenced as noticed hereinabove.

Counsel appearing for the petitioners has argued that the judgment of conviction recorded by the trial Court and affirmed by the First Appellate Court cannot sustain in the eyes of law. It is argued that there was a delay of almost 24 hours in recording of FIR and this itself would reflect on the possibility of fabrication and false implication and, accordingly, benefit of doubt should have been given to the accused party. Counsel has also argued that there were discrepancies and contradictions in the testimony of the prosecution witnesses and as such the prosecution has not been able to prove its case beyond the shadow of doubt.

Another argument raised is that even though the occurrence has alleged to have taken place in the residential area still no independent witness/neighbour had been produced by the prosecution to corroborate the version of the complainant.

This Court has heard counsel for the petitioners at length. The judgments of the trial Court as also the Appellate Court and the records of the case which had been requisitioned have been perused.

In the considered view of this Court, no interference in the matter is called for.

The MLRs of the injured i.e. complainant Naresh Kumar, his

brother Rajesh Kumar and mother Shindo placed on record would reveal

that they were brought to the hospital on 24.09.2010 itself at 11.10 p.m. i.e. within two hours of the alleged occurrence. The trial Court has taken a view that since injuries on the person of the injured party were blunt injuries and as such natural urge is to provide medical aid to the injured and not to register a case. The delay in recording of the FIR in the present case cannot be construed to be fatal to the case of the prosecution.

The prosecution case hinges on the testimony of the complainant himself i.e. Naresh Kumar and two other injured witnesses i.e. Rajesh Kumar PW3 as also Shindo mother of the complainant as PW-2. The statements of the complainant as also injured eye witnesses have been perused.

This Court does not find any major contradictions therein. With the passage of time there are bound to occur some inconsistencies. That by itself would not be a ground to reject the prosecution version. Rather MLRs of the injured party at Ex PW-4/D and PW-4/F would show that there is complete corroboration as regards medical evidence to the version set up by the complainant as also the two injured eye witnesses. The medical record shows that complainant Naresh Kumar suffered a fracture of the ulna of the left forearm while his brother Rajesh Kumar suffered a fracture of fifth proximal phalanx of the left hand, their mother Shindo also suffered multiple injuries. Apart from MLRs, the injuries have been proved even in the deposition recorded by Dr. Surinder Pal, Medical Officer PW-4 and Dr. Satvinder Singh, Radiologist, Civil Hospital, Jalandhar PW-5.

The consistent version of the complainant as also injured eye witnesses PW-2 and PW-3 is corroborated by medical evidence brought on record. Prosecution version cannot be discarded only on the ground that

independent witness had not been associated during the course of trial. The judgment of conviction and so affirmed by the first Appellate Court are based on due appreciation of evidence adduced on record. Valid and cogent reasoning has been furnished while recording judgment of conviction.

No ground for interference in the exercise of revisional jurisdiction of this Court is made out.

Petition is dismissed.

03.04.2017

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(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes