

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

Criminal Appeal S-1402-SB of 2008

Date of Decision : October 03, 2018

Raj Kumar

.....Appellant

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Ashit Malik, Advocate
for the appellant.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

T.P.S. MANN, J.

The instant appeal has been filed by Raj Kumar son of Sohan Lal, resident of village Isharwal for challenging the judgment and order dated 2/3.4.2007 passed by learned Additional Sessions Judge, Bhiwani whereby he was convicted under Section 364 IPC and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs. 2,000/-. He was also convicted under Section 326 IPC and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs. 2,000/-. He was further convicted under Section 325 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.500/-. He was also convicted under Section 323 IPC and sentenced to undergo rigorous

imprisonment for six months. In default of payment of fine, he was ordered to undergo additional rigorous imprisonment for two years. All the sentences were ordered to run concurrently.

According to the prosecution, on the intervening night of 13/14.11.2001, Mai Ram-complainant was sleeping in his house. The appellant alongwith his accomplices happened to be there and put him in TATA Sumo parked outside his house whereas Mahabir Singh-accused alongwith 5/6 persons was already sitting in the said vehicle and was taken to a distance of one kilometer. Raj Kumar-accused and his accomplices caused iron rod and fist blows on the complainant with the result that he became unconscious. There was a family feud between Mahabir Singh and his brother Mai Ram-complainant with regard to a chunk of land and that was the reason for the accused persons to cause injuries to him. Accordingly, on the complaint lodged by Mai Ram-complainant, FIR was registered.

During the investigation of the case, statements of the witnesses were recorded. The complainant was got medico-legally examined. Both Raj Kumar and Mahabir Singh accused were tracked and arrested. After completion of investigation, both the accused were challaned to face the trial. However, Mahabir Singh-accused absconded and was declared a proclaimed offender. The appellant was charged for the offences under

Sections 364/326/325/323 read with Section 34 IPC, to which he pleaded not guilty and claimed trial.

In support of its case, the prosecution examined ten witnesses, viz, PW1 Dr. Rajendera Gera, SMO, CHC, Kairu, PW2 Mai Ram, PW3 Bir Singh @ Amir Singh, PW4 Dr. N.C.Gauba, Private Practitioner, M/s Gauba Ultrasound Centre, Bhiwani, PW5 Amit Kumar, Record Keeper, Civil Hospital, Bhiwani, PW6 Inspector Dharampal, PW7 ASI Prem Singh, PW8 Sub Inspector Balwan Singh, PW9 Constable Rajbir Singh Malik and PW10 Sub Inspector Mahender Singh.

When examined under Section 313 Cr.P.C., the appellant pleaded that he was innocent and a false case has been foisted against him. However, he did not examine any witness in his defence.

As mentioned above, learned trial Court convicted and sentenced the appellant for the various offences.

This Court has heard learned counsel for the parties and perused the evidence with their able assistance.

From the medical evidence brought on the record by way of testimony of PW1 Dr. Rajendera Gera, it is made out that as many as eleven injuries were noticed on the person of Mai Ram-complainant when he was medico-legally examined on

14.11.2001. Injuries No. 1 to 5 and 7 were declared grievous in nature. All the injuries were caused with blunt weapon and within probable duration of twenty four hours.

Mai Ram-complainant was examined by the prosecution as PW2. He categorically deposed that on 13.11.2001 at around 11.00 p.m., when he was present in his house, Raj Kumar-appellant alongwith three other persons came and abducted him in a TATA Sumo where 4/5 persons were already waiting and then took him towards Miran. The appellant was attributed causing of blows with iron rod on various parts of his body whereas Mahabir Singh had slapped him. One person, who was armed with gun, had given a blow with the butt of the gun hitting him on his chest and his ribs were fractured. He became unconscious and, thereafter, thrown on the road. He was rushed to Civil Hospital, Bhiwani by his son Ombir and others. He also deposed that land was the bone of contention between him and the accused and that was the reason as to why he was abducted.

The prosecution had also examined PW3 Bir Singh @ Amir Singh, who had found PW2 Mai Ram lying in injured condition on a road and then he alongwith his son and some other persons took him to Civil Hospital, Bhiwani.

This Court has perused the statement of PW2 Mai

Ram-complainant, who testified in unequivocal terms that it were Raj Kumar-appellant and his own brother Mahabir Singh, who had abducted him from his house and, thereafter, caused him injuries. As many as eleven injuries were noticed on the person of the complainant and six out of them were declared grievous in nature. Despite being cross-examined by the defence, no material could be brought on record from which it could be said that he had falsely deposed against the appellant. The statement of PW2 Mai Ram is corroborated by PW3 Bir Singh @ Amir Singh, who had found the complainant lying in injured condition on the way. The medical evidence by way of testimony of PW1 Dr. Rajendera Gera lends independent corroboration to the case of the prosecution. Even otherwise, after collecting sufficient material to establish the guilt of the appellant, the police had prepared final report under Section 173 Cr.P.C. against the appellant.

As regards the question of sentence, it stands proved beyond doubt that the appellant had committed the various offences for which he stood charged. As per the custody certificate produced by the learned State counsel, the appellant is a habitual offender. In a good number of cases, he stands convicted and sentenced. To be fair to the appellant, it may also be mentioned here that he stands acquitted in four criminal cases which were also initiated against him.

Taking into consideration the totality of the circumstances, this Court is of the view that no case is made out for any interference in the impugned judgment of conviction and sentence.

The appeal is without any merit and, therefore, dismissed.

October 03, 2018
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned.	:	Yes / No
Whether Reportable.	:	Yes / No