

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

CRA S-1448-SB of 2006

Date of Decision : July 24, 2018

Prem and othersAppellants

Versus

State of Haryana Respondent

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

Present : Mr. Kulvir Narwal, Advocate for
Mr. Vivek Goyal, Advocate
for the appellants.

Mr. Kapil Aggarwal, Addl. A.G., Haryana.

T.P.S.MANN, J. (Oral)

The appellants, namely, Prem, Satish, Satbir, Rajesh and Nand Ram were tried for committing offences punishable under Sections 148, 307, 326, 324, 323 read with Section 149 IPC. Vide impugned judgment and order dated 17/19.7.2006, learned Additional Sessions Judge, Jind, convicted them for the aforementioned offences and sentenced them as below:-

- (i) Rigorous imprisonment for three years and to pay a fine of Rs.1,500/- each under Section 307 read with Section 149 IPC and in default of payment of

fine, to further undergo simple imprisonment for two months;

- (ii) Imprisonment for two years and to pay a fine of Rs.1,000/- each undergo Section 326 read with Section 149 IPC and in default of payment of fine, to further undergo simple imprisonment for one month;
- (iii) Rigorous imprisonment for one year and to pay a fine of Rs.500/- each under Section 324 read with Section 149 IPC and in default of payment of fine, to further undergo simple imprisonment for one month;
- (iv) Rigorous imprisonment for six months each under Section 323 IPC; and
- (v) Rigorous imprisonment for six months each under Section 148 IPC.

All the sentences were ordered to run concurrently. The period during which they had remained in judicial custody during trial or the investigation was ordered to be set off against the substantive sentences awarded to them. 50% of the fine was ordered to be given to the injured by way of compensation.

Aggrieved of their conviction and sentence, the appellants filed the present appeal, which was admitted and

notice issued to the State. The interim bail granted to them by the trial Court was ordered to remain suspended till the disposal of the appeal.

According to the prosecution, on 23.11.2003, complainant Mehar Singh and Balkar Singh, residents of village Karkhana were coming from their fields on a tractor. At about 9.00 p.m., when they reached near the Bus Stop, Satish accused met them, who was under the influence of liquor. He got their tractor stopped and abused them. The complainant and Balkar Singh, however, ignored him and came to their house. In the meantime, Satish armed with gandasi, Prem Singh with gandasi, Satbir with gandasi, Nand Ram with lathi and Rajesh with gandasi came and proclaimed that they would teach them a lesson for abusing Satish. Satvir gave a blow with the gandasi on the head of the complainant. Nand Ram gave two lathi blows on the shoulder and on the back. He raised an alarm, which attracted Shamsheer Singh and Prem of their village to the spot. On seeing them coming, Satish gave gandasi blow to the complainant on his left palm, Rajesh gave gandasi blow from its reverse side on his left arm. Prem gave gandasi blow to Balkar Singh on his head. All the accused, thereafter, decamped from the spot while carrying their respective weapons.

Further case of the prosecution is that on the basis of

the statement made by complainant Mehar Singh on the aforementioned lines, FIR No. 417 dated 25.11.2003 under Sections 324, 323, 148 and 149 IPC was registered against the appellants. Later on, after opinion from the doctor, the offence under Sections 307 and 326 IPC was added.

At the trial of the case, the prosecution relied upon the testimonies of EHC Ram Phal (PW1), Constable Sukhdev Singh (PW2), Constable Dilbag Singh (PW3), ASI Krishan Kumar (PW4), SI Darshan Singh (PW5), Dr. G.D. Sharma (PW6), Dr. Archana Yadav (PW7), ASI Braham Parkash (PW8), Mehar Singh (PW9), Balkar Singh (PW10), ASI Bhagat Ram (PW11), Dr. Sachit Sharma (PW12) and Dharam Pal (PW13).

Learned trial Court after hearing learned counsel for the parties and on going through the evidence, accepted the prosecution case and convicted and sentenced the appellants, as mentioned above.

After hearing learned counsel for the parties and on going through the record, this Court finds that complainant Mehar Singh while stepping into the witness box as PW9 and Balkar Singh as PW10 have deposed about the manner, in which, the occurrence had taken place. They also stated that they have received injuries on their respective persons at the hands of the appellants. PW6 Dr. G.D. Sharma had medico-legally examined

complainant Mehar Singh on 24.11.2003 and found the following injuries on his person:-

- “1. A wound with well defined regular and sharp margin of 8 cms x 1 cm. Fracture of bone felt, depth and further probe was not done at left posterior parietal region fresh bleeding was present. X-ray was advised and opinion of general surgeon.
2. A wound with well defined regular and sharp margin of 6 cms x 2 cms bone deep at ventral aspect of left hand. Fresh bleeding was present. X-ray was advised.
3. A reddish bruise of 6 cms x 1 cm at superior right shoulder. X-ray was advised.
4. Abrasion of 6 cms vertical placed at left posterior chest upper part. Fresh bleeding was present.
5. Abrasion 2 in number horizontal at lateral left arm with wounds of well defined and sharp margins within abrasion line of 1cm each dermis deep each abrasion. Fresh bleeding was present”.

According to the doctor, injury No. 1 was dangerous to life whereas injury No.2 was grievous in nature.

Similarly, Dr. G.D. Sharma, while conducting the medico-legal examination of Balkar Singh had noticed the

following injuries on his person:-

- “1. A wound of well defined regular and sharp margins shape as shown in MLR anterior frontal region of 9 cms x 1 cms. Fracture of bone felt at depth and further probe not done. Fresh bleeding was present. X-ray and surgeon opinion was advised.
2. Two wounds of well defined regular and sharp margins shape as shown in MLR at occipital region of sizes 13 cms x 1 cm and 8 cms x 1 cm. Fracture of bone felt at depth and further probe not done. X-ray and surgeon opinion was advised.
3. Reddish bruise of 3 cms x 3 cms at posterior left forearm. Swelling was present. X-ray was advised”.

The doctor also opined that injuries No. 1 and 2 had resulted into fracture of parieto occipital bone and, accordingly, they were declared dangerous to life

During the investigation of the case, the police had collected sufficient material to prove its case against the appellants. As such, no case is made out for any interference in the impugned judgment passed by the learned trial Court to the extent of convicting them for the various offences.

Coming to the question of sentence, it may be noticed

that the appellants are facing the agony of criminal prosecution for the last about fifteen years. When they were heard by the learned trial Court on the quantum of sentence, they had pleaded that they were poor persons and first offenders. They were the only bread winners of their respective families.

As per the custody certificates produced by the learned State counsel, Prem appellant has undergone an actual period of three months and nineteen days, Satish has undergone two months and twenty seven days, Satbir has undergone three months and eighteen days, Rajesh has undergone three months and fifteen days whereas Nand Ram has undergone sixteen days.

Taking into consideration the totality of the circumstances, this Court is of the view that the appellants who are on bail for the last about fifteen years need not be sent behind the bars, once again, for undergoing their remaining sentences. Ends of justice shall be suitably met, if their substantive sentence of imprisonment are reduced to the one already undergone by them. However, the sentence of fine can be suitably enhanced so as to compensate the two injured persons.

Resultantly, the conviction of the appellants, as recorded by the learned trial Court, is upheld. Their substantive sentence of imprisonment is reduced to the one already

undergone by them. The fine of Rs.1,500/- imposed upon each of the appellants under Section 307 read with Section 149 IPC is, however, enhanced to Rs.20,000/- each. The fine of Rs.1,000/- imposed upon each of them under Section 326 read with Section 149 IPC and Rs.500/- under Section 324 read with Section 149 IPC alongwith their default clauses are maintained. The enhanced amount of fine, be deposited by them in the Court of Chief Judicial Magistrate, Jind, within a period of three months, failing which, they shall be required to undergo simple imprisonment for four months each. The entire amount of fine, if deposited/recovered from them, shall be paid to complainant Mehar Singh and Balkar Singh, who had received injuries in the occurrence as compensation, in equal shares.

The appeal is, accordingly, disposed of.

July 24, 2018

amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No