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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision-27.01.2018

1. CRA-S-4258-SB-2016

Sukhwinder Singh @ Tidda

...Appellant

Vs.

State of Punjab

...Respondent

2. CRA-S-3603-SB-2016

Parminder Singh @ Kaka Dodhi

...Appellant

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms. G.K.Dulat, Advocate for the appellant.

Mr. Kuldeep Singh, Senior DAG, Punjab.

JITENDRA CHAUHAN, J.

This judgment shall dispose of afore-mentioned two criminal appeals arising out of the common judgment of conviction and the order of sentence dated 03.08.2016 passed by learned Addl. Sessions Judge, Rupnagar (for short, 'the trial Court'), thereby convicting the accused-respondents in FIR No.64 dated 02.05.2014 registered under Sections 120-B, 307, 323, 324 and 341 read with Section 34 of the Indian Penal Code (for short, 'the IPC') at Police Station Kurali, District Rupnagar. The accused-appellants were convicted and sentenced as under:-

Name	Offence	Sentence	Fine	In default
Sukhwinder Singh @ Tidda	323 IPC	RI for one year	Rs.1,000/-	Further RI for 15 days
	324 IPC	RI for three years	Rs.5000/-	Further RI for one month
Parminder Singh @ Kaka Dodhi	323 IPC	RI for one year	Rs.1,000/-	Further RI for 15 days
	324 IPC	RI for three years	Rs.5000/-	Further RI for one month

Both the substantive sentences were ordered to run concurrently.

Briefly stated the case of the prosecution as noticed in para No.2 of the impugned judgment passed by the trial Court is as under:-

“On 02.05.2014, ASI Mohan Lal received information from MHC that injured Manga Singh has been admitted in PGI Chandgiarh, upon which he reached there, where injured/complainant Manga Singh son of Bachan Singh r/o Dosarna got recorded his statement alleging that on 01.05.2014 at about 10-15 P.M., he was going from Kurali to his village for some personal work. When he took a turn of the street of his house, he noticed that the light of house of Balwinder Singh was on, where Sukhwinder Singh @ Tidda armed with knife, Gurinder Singh @ Ginda armed with sword, Amanpreet singh @ Tota armed with sword and Kaka Dodhi armed with Kirch were standing. They all encircled the complainant and threatened him to teach a lesson for getting registered a case against Gurpreet and others. The complainant raised alarm. In the meanwhile,

Sukhwinder Singh @ Tidda inflicted a knife blow in the stomach of complainant, accused Kaka Dodhi inflicted a kirch blow upon the left flank of complainant. On hearing the noise of complainant, his wife Kuljit Kaur and his brother Lal Bahadur Singh came out of the house. Thereafter, Gurinder Singh @ Ginda and Amandpreet Singh @ Tota inflicted kirpan blow upon the back of complainant. The wife and brother of complainant rescued the complainant from the clutches of accused. Thereafter, all the accused ran away from the spot while extending threats to the complainant party. The occurrence took place at the instance of Amrik Kaur wife of Gurmail Singh because father of complainant got registered a case against the sons of Amrik Kaur which is pending in the Court at Ropar. The statement of complainant was sent to the Police Station for registration of case. The weapon of offence and blood stained shirt of complainant were taken in to police possession. Site plan of place of occurrence was prepared and case under Sections 324, 341, 323, 506, 34 of IPC was registered against the accused. On receipt of report of Dr. Hemant Kumar, Senior Resident PGI, Chandigarh in which the injury of complainant was declared as dangerous to life, offence under Section 307 of IPC was enhanced. Accused were arrested. During investigation, the sword used in commission of offence was also taken in police possession. On 10.12.2014, accused Amrik Kaur was also arrested and thereafter released on bail as per the orders of learned Sessions Judge Rupnagar. Statements of witnesses were recorded. After completion of investigation, challan against

accused was prepared and presented in the Court of learned Area Magistrate.”

On presentation of challan, copies of documents as required under Section 207 Cr.P.C were supplied to the accused, free of costs.

Charges under Sections 307, 323, 324, 341 and 148 read with Section 149 IPC were framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined PW-1, Manga Singh complainant, PW-2 Lal Bahadur Singh, PW-3 Kuljeet Kaur, PW-4 Constable Ram Partap, PW-5, HC Jaspal Singh, PW-6 Dr. Lavleen, PW-7 ASI Mohan Lal, PW-8 ASI Sulakhan Singh, PW-9 Dr. Hemant Kumar, PGI, Chandigarh and thereafter closed its evidence.

The statements of accused were recorded under Section 313 Cr.P.C in which all the incriminating circumstances appearing in the prosecution evidence were put to the accused to which the accused denied and pleaded false implication.

No evidence in defence was led by the accused.

After appraisal of the evidence, the trial Court, vide impugned judgment and order dated 03.08.2016, convicted and sentenced the accused, as narrated above.

Feeling aggrieved against the judgment and order dated 03.08.2016 passed by the trial Court, the accused have filed the instant appeals.

It is contended that from the medical evidence on record, it transpires that all the injuries suffered by the injured were superficial in nature and no grievous injury is attributed to the appellants. No recovery of the the alleged weapons of offence was effected from the appellants. There are material discrepancies in the statements of the medical witnesses to the extent that PW-6, Dr. Lavleen noticed injury No.1 as incised wound over abdomen and injury No.2 as incised wound over the left side of chest lateral, whereas PW-9, Dr. Hemant Kumar, noticed 10 stab wounds on the chest, abdomen, back hand, etc. The testimony of PW1, PW2 and PW3, being interested witnesses, is not trustworthy.

On the other hand, learned State counsel submits that the prosecution has fully proved its case against the accused-appellants.

I have heard learned counsel for the parties and perused the record.

In the instant case, the allegations are that accused-appellant Sukhwinder Singh inflicted injuries upon the complainant in his abdomen with dagger, whereas, accused-appellant Parminder Singh @ Kaka Dodhi inflicted injuries on the left flank chest of the injured with Kirch. The allegations find corroboration from the medical evidence. Dr. Lavleen, PW6, who prepared the medico-legal report, Ex.PW5/A, noticed injury No.1 as incised wound over the abdomen 2 cms above the umbilicus and injury No.2 as incised wound over the left side of the chest lateral. In the medico-legal case summary, PW9, Dr. Hemant Kumar, noticed 10 stab wounds on the chest, abdomen, back hand measuring 0.5 X 0.5 cms. to 3 X 2 cms.

Therefore, the testimony of both the doctors is in consonance with regard to the injuries on the abdomen and chest. The medical evidence finds corroboration from the ocular version rendered by PW-2 Lal Bahadur Singh and PW3, Kuljeet Kaur. Therefore, learned trial Court has rightly recorded conviction against the appellants under Sections 324 and 323 IPC. However, owing to the discrepancies with regard to the number and nature of the injuries suffered by the complainant in the testimonies of the two doctors, i.e. Dr. Lavleen, PW6 who noticed that injury No.1 was incised wound over abdomen and injury No.2 was incised wound over the left side of chest lateral, whereas, Dr. Hemant Kumar, PW9, observed that there was as many as ten stab wounds on the person of the injured, the appellants have been acquitted under Section 307 IPC.

In view of the above discussion, this Court feels that the findings returned by the trial Court are based on correct appreciation of evidence available on record and that no interference by this Court is warranted in the well-reasoned judgment. Accordingly, the instant appeals are hereby dismissed. The appellants are stated to be on bail. Their bail bonds shall stand forfeited. They be taken into custody forthwith, to suffer the remainder of sentence.

Dismissed.

27.01.2018
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(JITENDRA CHAUHAN)
JUDGE

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