

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-641-SB-2016
DECIDED ON: FEBRUARY 03, 2018

BIKRAMJIT SINGH @ VICKY AND ANOTHER

.....APPELLANTS..

VERSUS

STATE OF PUNJAB

....RESPONDENT..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Lokesh Sharma, Advocate for the appellants.

Mr. H.S. Grewal, Additional Advocate General, Punjab.

JASPAL SINGH, J.

Challenge in this appeal is to the judgment of conviction and order of sentence dated 02/03.12.2015 passed by learned Sessions Judge, Ludhiana whereby appellants No.1 and 2 have been convicted under Sections 307 and 307/34 IPC, respectively and sentenced to undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.10,000/- each and, in default, to further undergo rigorous imprisonment for a period of three months.

2. Shortly put, the case of prosecution as unfolded by complainant Balwinder Singh is that on 24.06.2014 at about 11:00 p.m., Hardeep Singh @ Sonu came to his house and disclosed to him that Bikramjit Singh @ Vicky, Gobind Singh @ Shindha and Gagandeep Singh are standing on the other side of their house and when Hardeep Singh asked them as to why they were standing there, they started quarreling with him on saying so Hardeep Singh

came outside and complainant-Balwinder Singh also came out from his house and saw Gobind Singh @ Shindha and Gagandeep had caught his son Hardeep Singh @ Sonu and one Bikramjit Singh @ Vicky gave kirch blow in the left flank of his son and when complainant raised alarm, all the three accused ran away from the spot alongwith Kirch. Hardeep Singh @ Sonu was taken to Civil Hospital, Ludhiana by his brother Rajinder Singh, from where he was referred to CMC Hospital, Ludhiana. After registration of the instant case on the basis of aforesaid statement of PW3 Balwinder Singh-father of the injured, Police conducted the investigation, inspected the spot, prepared the rough site plan of the place of occurrence, took into possession blood stained clothes of Hardeep Singh @ Sonu and recorded the statements of witnesses. Accused Bikramjit Singh @ Vicky and Gagandeep Singh were arrested on 28.06.2014. On the disclosure statement of Bikramjit Singh, blood stained kirch was recovered and taken into possession vide separate memo by ASI Tarlok Chand. Rough site plan of the place of said recovery was separately prepared. After completion of all formalities, challan was presented against accused Bikramjit Singh @ Vicky and Gagandeep Singh in the Court of Illaqa Magistrate.

3. Finding a prima facie case, charge under Section 307 IPC against Bikramjit Singh @ Vicky and under Section 307/34 IPC against accused Gagandeep Singh was framed to which they pleaded not guilty and claimed trial.

4. On the strength of evidence adduced by the prosecution as well as after affording an opportunity to the accused and hearing learned counsel for the parties, accused Bikramjit Singh held guilty and convicted under Section 307 IPC whereas accused Gagandeep Singh convicted under Section 307 IPC read

with Section 34 IPC vide judgment dated 02.12.2015 and sentenced to undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.10000/- each and in default of payment of fine, to further undergo rigorous imprisonment for three months vide order dated 03.12.2015.

5. Aggrieved against their conviction and sentence, appellants-accused have preferred the instant appeal.

6. In response to the notice of motion, learned State counsel appeared and representing the State. Lower court's record was requisitioned and received.

7. At the very outset of the arguments, learned counsel for the appellants submits that he does not want to challenge the conviction of the appellants awarded by Sessions Judge, Ludhiana vide impugned judgment and order dated 02/03.12.2015 but has submitted that a lenient view be taken in the matter of sentence.

8. This Court has also gone through the impugned judgment of conviction as well as order of sentence but does not find any scope for interference so far as the conviction of the appellants under Sections 307/34 IPC is concerned. Accordingly, conviction of the appellants is affirmed/upheld.

9. As far as the quantum of sentence imposed upon the appellants is concerned, this Court finds some mitigating circumstances. The appellants are the first offenders, both aged about 25/26 years. Both are unmarried and are the sole bread winners of their respective families. They are not the previous convicts and aged about 25/26 years. Moreover, the assailants did not repeat the blow as there is only a single injury. Otherwise also, appellant No.1 remained behind the bars for 2 years, 2 months and 6 days and appellant No.2 remained behind the bars for 1 year, 10 months and 28 days (including remission). Thus,

this Court is of the considered view that a chance be given to the appellants to improve their lives and in the given circumstances, sentence imposed by the Sessions Judge to the extent of rigorous imprisonment for 5 years being on higher side and an exorbitant one, which can be termed not to be commensurative with the offence complained of.

10. This Court is, thus, of the considered view that ends of justice would meet, in case, sentence of the appellants is reduced to the period already undergone by them but with no change in the fine clause.

11. In the light of what has been discussed above, the appeal is dismissed with modification as observed above.

FEBRUARY 03, 2018
sonika

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned: Yes

Whether reportable: Yes/No