

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CRR-1472-2016

Date of Decision: February 16, 2018

Jarnail Singh.....Petitioner

Versus

State of Punjab and anotherRespondents

Coram: Hon'ble Mr. Justice Arvind Singh Sangwan

Present: Mr.Liaqat Ali,Advocate for the petitioner.

ARVIND SINGH SANGWAN, J.

Respondent-accused-Jarnail Singh with Gurbax Singh had faced trial for an offence under Sections 323, 324 read with Section 34 of the Indian Penal Code, 1860 ('IPC' for short) in FIR No. 33 dated 2.2.2006 registered at the instance of Baljinder Singh at Police Station Jagraon, District Ludhiana and the proceedings against Gurbax Singh were abated on account of his death. The trial Court vide impugned judgment dated 12.8.2015 convicted accused-Jarnail Singh under Sections 324 IPC and vide order of even date released the accused-Jarnail Singh on probation on executing a personal bond in the sum of ₹ 50,000/- with one surety of the like amount for

a period of two years . The trial Court observed that since the convict deserve a chance of rehabilitation in the arrest, therefore, he is entitled to be released on probation under Section 4(1) of the Probation of Offenders Act,1958. Aggrieved against the said judgment and order, petitioner- Jarnail Singh filed an appeal and the same was dismissed by the appellate Court vide impugned judgment dated 30.1.2016. Hence, the present revision petition.

The brief facts of the case, as noticed by the trial Court in para 2 of its judgment, are as under:-

“ Fields of Baljinder Singh, complainant is in village Chakkar. The said land is jointly ownership with his uncles Gurbax Singh, and Gulzar Singh. They had partitioned the said land among themselves. They are cultivating their land since long. On 1.2.2006 Jarnail Singh son of Gurbax Singh accused alongwith official of PSEB, has removed the electric poll in their field and got it installed on the joint land of Jarnail Singh and Mehar Singh. At that time Mehar Singh was also present there. Due to intallation of the pole, the wheat crops of Baljinder Singh was damaged and the fact had been told Mehar Singh to Nambardar. Baljinder Singh son of Mehar Singh, complainant was also present there. On hearing raula, he came there at about 4.00 p.m. He along with his father had told Jarnail Singh as to why they had damaged their crops and told him this could have been

done after harvesting the crops. Due to this Jarnail Singh felt annoyed with them and started exchange hot words. Gurbax Singh was also present there who had caught hold the arm of the complainant and accused Jarnail Singh gave a kahi blow on his head which hit on his forehead. Jarnail Singh gave another kassi blow from its reverse side which hit on his left biceps. IO recorded the statement of the complainant and FIR was registered. Accused were arrested. Statements of witnesses were recorded, site plan of alleged place of recovery, relevant memos were prepared and after completion of usual investigation, challan was prepared and presented in the Court.”

The trial Court framed charges against accused Jarnail Singh and Gurbax Singh under Sections 323,324 read with Section 34 IPC. It may be noticed that during trial accused Gurbax Singh died and, accordingly, proceedings against him were abated.

Prosecution in its evidence examined PW1 Satpal Singh, PW2 Dr. Sukhdev Singh, who proved the MLR Exhibit PW2/A. He further proved x-ray report Ex.PW2/C along with its films Ex.P1 and Ex.P2. PW3 Karam Singh has proved documents statement of complainant Ex.PA. Memo Ex.PB investigation and Memo Ex.PB/1 vide which the same was entered into DDR, Rough site plan EX.PC and PW4 Baljinder Singh.

After closure of the prosecution evidence, the accused

were examined under Section 313 Cr.P.C who denied all the incriminating evidence.

In order to rebut the case of prosecution, accused examined DW1 H.K.Singla and thereafter the defence evidence was closed.

Learned counsel for the petitioner has argued that the accused has been falsely implicated in this case and the prosecution has failed to prove its case beyond reasonable doubt.

After hearing the learned counsel for the petitioner, and going through the record, I am of the considered view that this petition deserves dismissal.

Injuries on the person of the complainant on the date of incident have been duly corroborated by the evidence of PW2 Dr. Sukhdev Singh. Mehar Singh was the only eye witness but during the pendency of the present case, he died and his evidence could not be recorded. Prosecution case was duly proved as in the cross cases between the parties, the date, time and place of occurrence is admitted. Even the presence of the accused party is also admitted. The evidence led by the prosecution also proved that the accused- Gurbax Singh and Jarnail Singh had caused simple injuries on the person of the complainant with sharp edged weapon i.e. spade blow.

The presence of the accused-Jarnail Singh, Gurbax Singh, Mehar Singh and Baljinder Singh is admitted in cross cases also and keeping in view the ocular as well as medical evidence qua the injuries attributed to accused Jarnail were duly proved and he had

been rightly convicted under Section 324 IPC by both the Courts below. There is no illegality or irregularity in the order passed by the Courts below warranting interference in the present revision petition. Even in the cross-case, accused person-Baljinder Singh was convicted under Section 324 IPC and was released on probation similarly the petitioner-Jarnail Singh was also released on probation.

A Division Bench of this Court in **State of Punjab v. Hansa Singh** 2001(1) RCR (Criminal) 775, while dealing with an appeal against acquittal, has held as under:-

“We are of the opinion that the matter would have to be examined in the light of the observations of the Hon'ble Supreme Court in **Ashok Kumar vs. State of Rajasthan, 1991(1)scc 166**, which are that interference in an appeal against acquittal would be called for only if the judgment under appeal were perverse or based on a mis-reading of the evidence and merely because the appellate Court was inclined to take a different view, could not be a reason calling for interference.

Since both the Courts below have recorded the concurrent finding that the petitioner-complainant has failed to prove his case, in view of the judgment of Hon'ble the Supreme Court in **Allarakha K. Mansuri v. State of Gujarat, 2002(1) RCR (Criminal) 748**, holding that where, in a case, two views are possible, the one which favours the accused, has to be adopted by the Court, the

impugned judgments do not call for interference. Accordingly, this revision petition is dismissed.

(ARVIND SINGH SANGWAN)
JUDGE

February 16, 2018
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

