

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4692 of 2017

DATE OF DECISION: JANUARY 23, 2018

PARMJEET AND ANR.

...PETITIONERS

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.

PRESENT: MR. VAIBHAV PARASHAR, ADVOCATE FOR THE PETITIONERS.

MAHABIR SINGH SINDHU, J.

Present petition has been filed against the impugned order dated 17.11.2017 vide which both the petitioners have been ordered to be summoned by learned Judicial Magistrate 1st Class, Indri to face the trial for the offence punishable under Section 148, 149, 323, 324, 325, 201 and 506 IPC on the basis of the application moved by the prosecution under Section 319 Cr.P.C. It is contended by learned counsel for the petitioner that there is no material available on record to prove the complicity of the petitioners in this case and rather they were declared innocent by the police as it was found that they have not played any actual role in the commission of the offence.

Heard learned counsel for the petitioner and perused the paper book.

A perusal of the impugned order clearly reveals that from the very beginning the names of both the petitioners have been mentioned by the complainant as well as injured, i.e. Salinder and Balinder (PW4)

respectively. Even in the statement recorded under Section 161 Cr.P.C. also the names of both the petitioners have been mentioned and Balinder while appearing as PW4 has categorically deposed that both the petitioners were present at the time of occurrence and his testimony reads as under:-

“Stated that this relates to 22nd day of the 3rd month of 2015 at about 4 to 4.30 p.m. We got a land 2K-12 Marlas from Karan and Balwan for the last 4-5 years ago and we are cultivating the land. Due to this enmity of this land, on that day Sanjeev, Karan Singh, Balwan, Kadma, Jagmal, Pardeep, Paramjeet were hiding in their field. My brother Salinder went to his field on tractor for sowing and I was coming behind him about ½ km carrying the seeds. Sandeep stated that they should be taught lesson for visiting the field. Sandeep hit Gandasi on the forehead of Salinder. Kadma hit the stick on Salinder's arms and legs. Karan Singh also hit with stick. Balwant also hit him with stick. Jagmal hit Salinder with danda. Salinder shouted mar-dia, mar-dia and Pardeep hit me on my head with stick twice and one hit on my left leg. Paramjeet hit me on my forehead and arm. Then one neighbourer namely Karambir came there who saw us being beaten and shouted lalkara on the accused and asked why they were killing. On this all the accused ran away with their weapons. On receiving the information in the village, my uncle's son came there and admitted in the government hospital, Indri. They referred us to Karnal for x-ray etc. after treating us. Salinder remained

admitted in the hospital and I was discharged after taking some medicine. My treatment is going on. All the accused are present in the courts except Paramjit and Pardeep who injured me and my brother. Police came to me on 24 at Karnal and I narrated all these happening.”

In view of the testimony of PW4, it is apparently clear that on 22.3.2015, Pardeep and Parmjeet both participated in the occurrence and Pardeep hit Balinder on his head with stick, twice and once on his left leg. Similarly, Paramjeet hit Balinder on his forehead and arm.

The judgement cited by learned counsel for the petitioner in **Brijendra Singh and others vs. State of Rajasthan, 2017(3) RCR (Criminal) 374** is not applicable in the facts of the case as in that case the presence of appellant at the place of occurrence was doubtful and did not inspire confidence and in view of those facts, the plea of alibi of appellant was accepted as correct. But, here, in the present case the situation is entirely different. Consistently, the names of both the petitioners have been mentioned right from registration of FIR till the recording of statement of PW4. Therefore, the judgement is distinguishable on facts.

In view of the above factual position, this Court does not find any legality or perversity in the order passed by the learned trial Court. Consequently, the same is dismissed.

January 23, 2018
Gulati

(MAHABIR SINGH SINDHU)
JUDGE

Whether Reportable : Yes
Whether Speaking/Reasoned : Yes