

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

**Criminal Appeal S-1036-SB of 2006
Date of Decision: September 25, 2018**

State of Punjab	Versus	Appellant
Wassan Singh and others		 Respondents

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

Present : Mr. Sarabjit Singh Cheema, Asstt. A.G., Punjab.

Mr. P.B.S. Goraya, Advocate
for the respondents.

T.P.S.MANN, J.

The State of Punjab has challenged the judgment dated 5.12.2005 passed by learned Additional Sessions Judge (AD) Amritsar to the extent of acquitting respondents No. 1 to 4 of charges under Sections 307, 326 and 325 IPC and of acquitting respondent No.5 of all the charges against her.

The accused were tried for offences under Sections 148 and 307/326/325/324/323/149 IPC with the allegations that complainant Sulakhan Singh was brother of Wassan Singh accused. They had one more brother, namely, Lakha Singh. Their

father Karam Singh had given his land situated in village Bhail to Lakha Singh and Wassan Singh whereas land situated in village Rahal Chahal was given to the complainant. However, Wassan Singh accused continued to remain in illegal possession of two killas of land of village Rahal Chahal. On 11.8.2001 at 2.00 p.m., when supply of electricity was available, the complainant switched on the tubewell to irrigate his paddy crop. However, Sarwan Singh accused diverted water towards his field. The complainant managed to divert the water towards his field. Sarwan Singh accused left for the village. Soon thereafter, at about 2.30 p.m., Wassan Singh armed with gandasi, Sarwan Singh and Sarabjit Singh armed with kulharis and accused Paramjit Kaur and Sukhdip Kaur @ Babbi carrying dangs came to the house of the complainant. Wassan Singh raised lalkara to teach lesson to the complainant for not allowing them to irrigate his field. He gave a gandasi blow to the complainant on his left flank. Sarabjit Singh gave kulhari blow on his left shoulder. Sarwan Singh gave kulhari blow on his left arm. Paramjit Kaur inflicted dang blow on his left thigh. In the meanwhile, Karam Singh, father of complainant Sulakhan Singh alongwith Gurbachan Singh father-in-law of his son tried to intervene. Sarwan Singh gave two blows with kulhari to Gurbachan Singh. Sukhdip Kaur @ Babbi gave two blows on his right arm and wrist and Wassan Singh gave gandasi blow to

Karam Singh on his left thigh, who fell down. Accused Sarabjit Singh gave kulhari blow from its reverse side on the left arm whereas Paramjit kaur gave dang blows on his chest, left ear and right forearm, and, thereafter, all the accused ran away.

It is also the case of the prosecution that ASI Surinder Singh recorded the statement of complainant Sulakhan Singh in Civil Hospital Sirhali and on its basis, FIR was registered against the accused.

Learned trial Court after hearing learned counsel for the parties and on going through the evidence brought on the record, acquitted accused-Sukhdip Kaur @ Babbi of the charges against her whereas the remaining accused, namely, Wassan Singh, Sarabjit Singh, Sarwan Singh and Paramjit Kaur acquitted of the charges under Sections 307, 326 and 325 IPC. However, these accused were convicted under Sections 324/323/34 IPC and extended the benefit of probation under Section 4 of the Offenders Act.

Having heard learned counsel for the parties and on going through the record, this Court finds that PW5 Dr. Shalinderjit Singh deposed that injuries No. 1 and 2 on the person of Karam Singh were subjected to X-ray examination. However, the injuries were not X-rayed. PW8 Dr. Alok Sharma,

who was a Post Graduate student testified that the injuries were dangerous to life. However, he had given opinion at the instance of Head of his Department. The Head of the Department was the best witness to give opinion regarding the nature of injuries. Fact remains that it was Dr. Alok Sharma who stated about the nature of injuries, not from his own observation but on the observation of the Head of his Department. Even the statement made by PW8 Dr. Alok Sharma that the injuries of Karam Singh were dangerous to life was extremely vague. He did not examine the injuries. Injury No.1 was 2 cms long incised wound on the left knee. Injury no. 2 was haematoma on the left arm, while injury No.3 was an abrasion on the chest. Injury No. 5 was also an abrasion and injury No.4 was an incised wound on the left ear. None of the injuries was on the vital part. Therefore, by no stretch of imagination it could be said that the accused were liable to be convicted for committing offences under Sections 307, 326 and 325 IPC. Therefore, no fault can be found with the impugned judgment to the extent of acquitting respondents No. 1 to 4 of the charges under Sections 307, 326 and 325 IPC.

As regards accused Sukhdip Kaur @ Babbi, it may be noticed that while lodging the FIR, complainant Sulakhan Singh had stated that she had given dang blows to Karam Singh. However, while appearing before the trial Court, neither Sulakhan

Singh nor Karam Singh stated anything regarding causing of injuries by her. She happened to be the unmarried daughter of accused Wassan Singh. Therefore, it was highly doubtful that she would go alongwith her co-accused to the house of complainant Sulakhan Singh where the occurrence is stated to have taken place. As such, no case is made out for any interference in the impugned judgment to the extent of acquitting respondent No.5-Sukhdip Kaur @ Babbi of the charges against her.

The appeal is without any merit and, therefore, dismissed.

September 25, 2018.
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No