

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1017-SB-2004
Decided on : 29.08.2019

Satbir &ors.

..... Appellants

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by : Ms. Shubreet Kaur, Advocate
amicus curiae for the appellants.

Mr. S.S.Pannu, DAG, Haryana.

Manjari Nehru Kaul, J.

The instant appeal has been preferred against the impugned judgment of conviction and order of sentence dated 17/19.04.2004 passed by Addl. Sessions Judge, Gurgaon vide which the accused namely Kela, Omwati, Chanderpati and Parsandi were released on probation and the following accused-appellants were convicted and sentenced as under:

<i>Name of Convict</i>	<i>Offence</i>	<i>Period of sentence</i>	<i>Fine imposed</i>	<i>Period of sentence in default of payment of fine</i>
Satbir Kuldeep Azad Shamsher	325 read with Section 149 IPC	Rigorous imprisonment (RI) for three years	Rs.1,000/-	RI for two months
Satbir Kuldeep Azad Shamsher	323 read with Section 149 IPC	RI for six months	-	-

<i>Name of Convict</i>	<i>Offence</i>	<i>Period of sentence</i>	<i>Fine imposed</i>	<i>Period of sentence in default of payment of fine</i>
Satbir Kuldeep Azad Shamsher	148 IPC	RI for one year	-	-

All the sentences were ordered to run concurrently.

2. Prosecution case in brief was that after the injured Jagdish (PW-3) had been declared fit by Dr. B.B.Aggarwal (PW-14), his statement Ex.PB was recorded by the police wherein he stated that on 31.08.2001 at about 6.00 am when he was smoking hukka in the company of Dharam Pal and Dharambir on his plot, appellants Satbir, Kela along with her sons Azad and Kuldeep, Omwati, Chanderpati @ Narpati, Parsandi, Shamsher and Khushi Ram all armed with lathis descended on the spot. They all started raising lalkaras whereupon the complainant Jagdish, Dharam Pal and Dharambir came out of the plot on rasta-sare-am. The appellant Satbir inflicted a lathi blow on the rear of the complainant's head and another blow on his left knee. The other accused in the meantime started inflicting lathi blows on Dharampal and Dharambir, who were seriously injured in the occurrence. The complainant on receiving the injuries became unconscious. After inflicting the injuries on the person of the complainant and others, the accused left the place of occurrence but not before declaring that though they had been saved that time, they may not be lucky enough to escape the next time round. On the basis of this statement, FIR No.161 (Ex.PB/1) was registered under Sections 147, 148, 323 and 506 IPC leading to the arrest of the appellants.

3. On completion of investigation, the appellants were charged for

offences under Sections 148, 307/149, 325/149 and 323/149 and 506 IPC, to which they pleaded not guilty and claimed trial.

4. After analyzing and perusing the evidence available on record, the trial Court convicted the accused and sentenced them as already detailed above.

5. At the very outset, learned counsel for the appellants has fairly submitted that in view of the findings of fact recorded by the learned trial Court, she would not press the instant appeal on merits and would confine her prayer on the quantum of sentence only. She has further contended that the dispute between the parties was primarily personal in nature and injuries were received by both the parties in the alleged occurrence. She has pleaded that the occurrence pertains to the year 2001 and thus, the appellants have faced the agony of a prolonged trial for a period of almost 18 years. She has further submitted that the appellants have been leading the life of disciplined and peace loving citizens for the last 18 years and are not involved in any other criminal case. She has thus, prayed that in the facts and circumstances of the case, a lenient view may be taken and the quantum of sentence awarded to the appellants by the learned trial Court be reduced to the period already undergone by them as no useful purpose would be served by sending the appellants behind the bars.

6. As per custody certificate filed by learned State counsel, the appellant Satbir has undergone an actual sentence of 01 month and 16 days out of the substantive sentence awarded to him by the trial Court while appellant Azad, Shamsheer Singh and Kuldeep Singh have undergone an actual sentence of 22 days out of the substantive sentence awarded to them. The custody

certificates do not reflect the involvement of the appellants in any other criminal case.

7. I have heard learned counsel for the parties besides going through the evidence and other material available on record.

8. Keeping in view the facts and circumstances and the submissions made by learned counsel for the appellant, I am of the considered view that ends of justice would be met if while maintaining the conviction of the accused-appellants, their substantive sentence of RI for 3 years under Section 325/149 IPC is reduced to RI for one year. However, the fine imposed upon the appellants is enhanced from Rs.1,000/- to Rs.2,000/- awarded under Section 325/149 IPC, which shall be deposited by them in the trial Court within a period of one month. The sentence of RI for one year awarded under Section 148 IPC is, however, maintained. The appellants are further directed to deposit an amount of Rs.10,000/- each in the trial/successor Court within a period of two months, which shall be disbursed to PW-3- Jagdish, complainant PW-5 Dharampal and PW-4 Dharambir, as compensation in equal proportion. It is made clear that in case of non-deposit of the aforementioned compensation, the benefit of reduction of sentence shall not accrue to the appellants.

9. With these modifications, the present appeal is disposed of.

August 29, 2019
sonia

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned:
Whether reportable :

Yes/No
Yes/No