

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

Sr. No. 310

**CRA-S-537-SB-2004 (O&M)
Date of decision : 01.07.2019**

Inder Singh and others

..... Appellants

VERSUS

State of Punjab

..... Respondent

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CRA-S-599-SB-2004 (O&M)

Mukhtiar Singh and others

..... Appellants

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Mr. S.P.S Sidhu, Advocate, for the appellants.

Mr. M.S Sidhu, Advocate, for the appellants
in CRA-S-599-SB-2004.

Mr. H.S. Sullar, DAG, Punjab.

SUDHIR MITTAL, J.

This judgment shall decide aforementioned appeals as both of them arise out of the same incident dated 27.8.2002. On the complaint of Mukhtiar Singh, an FIR was registered and on the complaint of Inder Singh cross case was registered. Both these cases have been decided vide separate judgments dated 25.2.2004, passed by the Addl. Sessions Judge, Fast Track Court, Ferozepur.

2. FIR No.268 dated 27.8.2002, was registered at Police Station Sadar Ferozepur, under sections 324/148/149 of the Indian Penal Code

(85 of 1860) (for short 'IPC') on a complaint made by Mukhtiar Singh son of Ganesha Singh. According to the complainant, his brother Tara Singh and one Mangal Singh son of Kala Singh went to their fields on 27.8.2002 to reap some crops. Thereafter, they came home and were returning to their fields once again when they met the complainant who was returning to the village on a bicycle. They crossed the tubewell of Harnek Singh at about 1.30 p.m. and at that point in time, the accused persons, totaling 17 in number, armed with takua, dang and kahi, came out from the tubewell of Harnek Singh and attacked them. Injuries were sustained by Tara Singh and complainant Mukhtiar Singh and on raising a hue and cry, the accused went away with their respective weapons.

3. According to the cross-case, injured complainant Inder Singh was irrigating his fields at about 2.00 p.m. on 27.8.2002, utilizing the water from tubewell of Harnek Singh. Surjit Kaur daughter of Harnek Singh was washing clothes at the tubewell. Mohinder Singh was sitting at the tubewell of one Om Parkash. Phindru son of Tara Singh came to Inder Singh and started misbehaving with him. On his remonstrations, Phindru went away, but soon returned alongwith his co-accused totaling 08 in number. They were armed with gandasas, kahi, chain and sota. They attacked Inder Singh for misbehaving with Phindru. Injuries were sustained by Inder Singh, Mohinder Singh and Surjit Kaur.

4. Dr. Mahesh Chander Marken, PW6, medico legally examined the injured persons from the complainant side as well as those from the accused side. From the complainant side, Tara Singh sustained one injury being an incised wound 6 cm. X 0.75 cm. on the right fronto

parietal region of head and Mukhtiar Singh sustained two injuries, one of which was superficial incised wound on the left elbow joint and the other an incised wound 5 X 0.75 cm. on the fronto parietal region of head. From the accused side, Mohinder Singh sustained one injury i.e. incised wound of 10 cm. length starting from left side of forehead, Inder Singh sustained two injuries, both incised wounds, one on the occipital region of head and the other on the right postero parietal region of the head and Surjit Kaur daughter of Harnek Singh sustained 04 injuries, but there was no external mark in respect of any of them.

5. The trial Court convicted 04 out of the 07 accused in the FIR case. Inder Singh, Satnam Singh and Dona Singh were substantively convicted under section 324 IPC while all the accused were convicted under section 324 with the aid of section 34 IPC and the maximum sentence of RI for a period of 02 years was imposed. On the complainant side, 06 were convicted out of 08 persons tried. Joginder Singh, Tara Singh and Des Raj were substantively convicted under section 324 IPC while all of them were convicted under section 324 IPC with the aid of section 149 IPC as well as under section 148 IPC and maximum sentence of RI for a period of 02 years was imposed. Sentences of both parties were suspended after passing of order of sentences.

6. As a result, the convicted persons have undergone sentences ranging from 25 days to a month and 17 days.

7. Learned counsel for the parties have confined their prayer to release of the convicted persons on probation.

8. Custody certificates have been filed by the learned State counsel, according to which, no criminal case has been registered against the accused persons after the year 2002. Against some of them, another case appears to have been registered in the year 2002 under sections 107/151 Cr.P.C., but the outcome thereof is not clear.

9. From the aforementioned custody certificates, it becomes clear that no criminal case has been registered against the convicted persons after the year 2002. The second criminal case registered against some of them in the year 2002 is in respect of proceedings initiated under section 107/151 Cr.P.C. and the same is not a serious matter.

10. A person, who is above 21 years of age and is convicted of an offence punishable with imprisonment for a term of 07 years or less, can be released on probation of good conduct under section 360 Cr.P.C., if it appears to the Court that regard being had to his age, antecedents and the circumstances of the offence, it is expedient to do so. From the facts of the instant case, it is evident that a fight took place between the parties on account of land dispute. Simple injuries with sharp edged weapons were inflicted upon persons belonging to both parties. Such incidents are common place in villages and the perpetrators cannot be classified as criminals in the generic sense of the term. No other offence has been committed by them after the present case and this indicates that the present incident was a one off incident. The parties appear to have settled their dispute and have been living together amicably. This is apparent because no other incident has taken place between them. Apart from this, they have been subjected to a long trial of about 02 years and their

appeals have been pending for the last 15 years. Thus, the sword of Damocles has been hanging over their heads for a long period of time. Under the circumstances, I deem it just and expedient to exercise powers under section 360 of the Cr.P.C, to release the appellants on probation by maintaining their conviction.

11. Thus, the impugned judgments of conviction, passed by the Addl. Sessions Judge, Fast Track Court, Ferozepur, are maintained and so far as impugned orders of sentence, are concerned, instead of sentencing, the appellants are directed to be released on probation on their furnishing probation bonds with adequate surety each, within 15 days from today, for a period of six months each, to the satisfaction of the successor Court of the then Addl. Sessions Judge, Fast Track Court/Chief Judicial Magistrate, Ferozepur, Their probation period shall commence from the date they furnish the probation bonds, ibid, undertaking therein to keep peace and be of good behavior.

12. With the above observations, the appeals are accordingly, dismissed.

13. Copy of this judgment be sent to the successor Court of the trial Court concerned, for compliance.

14. A photocopy of this judgment be placed in the file of the other connected case.

(SUDHIR MITTAL)
JUDGE

01.07.2019

Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No