

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1498-SB-2005
Date of decision: 11.12.2019

Sadhu Ram and others

...Appellants

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.Kulvir Narwal, Advocate for
Mr.RK Dhiman, Advocate for the appellants

Mr.Vikrant Pamboo, DAG, Haryana

Mr.Amrit Singh, Advocate for
for Mr.NS Shekhawat, Advocate for the complainant

JITENDRA CHAUHAN, J.

1. The present appeal is directed against the judgment and order dated 20.8.2005 passed by the Sessions Judge, Rewari (for short `trial Court'), whereby the accused–appellants have been convicted and sentenced as under:-

Offence under Section	Sentence (rigorous imprisonment)	Fine	Sentence in default of payment of fine (further R.I.)
148 IPC	1 year each		
452/149 IPC	2 years each	Rs.1000/- each	2 months
323/149 IPC	6 months each	Rs.500 /-each	1 month
324/149 IPC	1 year each	Rs.2000/-each	3 months
325/149 IPC	2 years each	Rs.2000/- each	3 months
326/149 IPC	3 years each	Rs.2000/- each	3 months
307/149 IPC	7 years each	Rs.2000/- each	3 months

The substantive sentences were ordered to run concurrently.

2. The trial Court noticed the facts of the present case in para Nos.4 and 5 of the impugned judgment, which are as under:-

“According to the allegations, briefly stated: complainant -injured Ramesh son of Matadeen, aged about 30/31 years, was resident of village Raipur and an agriculturist by profession. On 3.9.2001 at about 5 PM he returned from his fields to his house. At that time his wife told him that Smt. Khubli was lifting the garbage in front of her house. Juvenile Suman daughter of Sadhu Ram was coming with her buffaloes, after seeing water to them. A buffalo had struck against Smt. Khubli as a result of which she fell down. Smt. Khubli asked Suman to mend her buffaloes. On that account, an altercation took place between them.

5. *The complainant alleged that at about 8 PM on the same day, (dated 3.9.2001) he was taking his food at his house. He heard the noise of Mardiya-Mardiya from the house of his neighbour Lala Ram. He went there and saw that accused Sadhu Ram son of Ganpat armed with Lathi, Giani son of Ganpat armed with Farsi, Sunil son of Sadhu Ram armed with Bhala, Anil son of Giani Ram armed with iron rod, Shushma daughter of Giani Ram armed with Kulhari and wearing a helmet on her head,*

Geeta wife of Giani Ram armed with a pipe, Phoola Devi wife of Sadhu Ram armed with a Baanki and Suman daughter of Sadhu Ram armed with a Baankri had entered into the house of Lala Ram and beating women and children. Complainant's younger brother Satbir (also an injured) had also arrived at that time. They both raised a Lalkara as to why the accused persons were beating the women and children. On that, accused Sadhu Ram gave a Lathi blow on the complainant's head whereas Sushma daughter of Giani Ram gave a Banki blow on the dorsum of his left hand. Complainant and his brother raised a Lalkara (Bachao-Bachao). Upon this, Pappu son of Natha Ram and Krishan Kumar son of Jodha Ram were attracted and they rescued them from the clutches of the accused party. Anil Kumar and Jagdish got them admitted in the community Health Centre, Bawal for treatment.

3. After recording the statement of complainant -injured Ramesh Ex.PA, FIR was got registered. On completion of the investigation, the challan was presented in the Court. All the accused were charge sheeted under Sections 148, 323, 324, 325, 326, 307 & 452 read with Section 149 IPC, to which they pleaded not guilty and claimed trial. Accused Anil and Suman, who were named in the FIR, were found to be juveniles and as such their case was separately presented before the Juvenile Court.

4. To prove its case, the prosecution examined Satbir as PW1, Narvanti PW2, Ramesh as PW3, Nirmala as PW4, Krishna as PW5, Constable Dharampal as PW6, Puran Chand as PW7, HC Ram Sarup as PW8, Constable Sajjan Singh as PW9, Khubli as PW10, SI Basant Pal as PW11, MHC Surajbhan as PW12, Constable Kedar Mal as PW13, Dr.Sombir as PW14, ASI Inder Singh as PW15, Ramdhan as PW16, Dr.AShok as PW17, ASI Satya Parkash as PW18 and Dr.Ajay Gulati as PW19.

5. After completion of the deposition made by the prosecution witnesses, the accused was examined under Section 313 of the Code of Criminal Procedure. The accused denied the circumstances appearing against them in prosecution evidence and pleaded false implication. In defence, they examined Dr.Chander Shekhar as DW1.

6. After hearing learned counsel for both the parties, learned trial Court convicted and sentenced all the accused appellants as noticed in para no.1 hereinabove.

7. Feeling aggrieved by the judgment/ order of the learned Trial Court, the appellants have preferred this appeal.

8. Learned counsel for the appellants contends that the occurrence had taken on place at 8 p.m. on 3.9.2001, whereas the FIR was lodged on 4.9.2001 at 1.05 a.m., which indicates that the FIR was lodged an after thought and innocent persons were falsely implicated in the present case. He further submits that the case does not fall within the ambit of Section 307 IPC as no definite opinion was given by the doctor that the injury on

the person of Satbir would have caused death.

9. Lastly, learned counsel for the appellants states that keeping in view the facts that both the parties have a common ancestor, their houses are in the neighbourhood and a compromise between them had been reduced into writing, which is already placed on record as Annexure A-1, the incident took place in the year 2001 and a long number of years have gone and in the interregnum period, the appellants have not repeated the offence and they are not the previous convicts, therefore, the lenient view may be taken in the matter.

10. On the other hand, learned counsel for the State submits that after appreciating the every aspect of the matter and the evidence on the record, learned trial Court has rightly convicted and the sentenced the appellants. The appellants cannot derive any benefit of compromise at this stage. He prays for the dismissal of the appeal.

11. Heard.

12. In the present case, the occurrence had arisen due to a sudden quarrel at about 8 p.m. on 3.9.2001 in the area of village Raipur, in which 11 persons had sustained injuries. They were rushed to Community Health Centre, Bawal and on receipt of the necessary information, the police had arrived there and recorded the statement of complainant Ramesh, which was completed at 12.30 a.m. on 4.9.2001 and on the basis of the same, the FIR was lodged. In the occurrence, 11 persons were injured and only one person Ramesh, the complainant was declared fit to make statement. He narrated the entire occurrence and named all the accused persons alongwith their

respective weapons. The paramount attempt was to save the lives of the injured. Therefore, the delay cannot be said to be fatal.

13. The injuries suffered by Satbir son of Matadin as per medico legal report Ex.PW17/T and copy of pictorial diagram Ex.PW17/U are as under:-

1. Incised wound of size 5x2 cm eleptical shaped with clear cut margin muscular deep bleeding vertically placed over left side of scalp.
2. Bruise with abrasion of size 6x2 cm obliquely placed reddish in colour with tenderness over lateral side of right arm in the middle.
3. complaint of pain on both sides of chest with tenderness and difficulty in respiration.

14. According to the opinion of doctor, injury Nos. 1 & 3 were advised for x-ray. Injury No.1 was caused by sharp weapon whereas injury Nos.2 & 3 were caused by blunt weapon with duration of six hours.

15. PW17 Dr.Ashok Kumar deposed that injury no.1 on the person of Satbir might be dangerous to life if the same was not treated timely as per report Ex.PW17/KK.

16. In the occurrence, 11 persons were injured and they had sustained as many as 30 injuries, which were caused with sharp as well as blunt weapons. Fractures were found on the persons of Nirmla, Santosh, Krishana, Narwanti, Ramesh, Khubli and Satbir. Injured Satbir had sustained fracture in the head and the injury was declared as dangerous to life. In view of the medical record, it cannot be said that the case of the appellant does not fall with the ambit of Section 307 IPC. Accordingly, the

conviction is upheld.

17. As regards sentence, the learned counsel for the appellants argues that now the matter has been compromised between the parties and the incident is of the year 2001, the sentence of the appellants may be reduced to the one already undergone.

18. Hon'ble the Supreme Court in 2006(4) R.C.R. (Criminal) 645 titled as "**R. Soundarajan V. Seed Inspector, Coimbatore and another**" observed as under:-

"26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during the pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment"

19. In the present case, learned counsel for the complainant admits the factum of compromise.

20. The FIR in the instant case was registered in the year 2001. The

appellant has suffered protracted trial of more than 18 years. Considering the fact that the appellants are not the previous convicts; residents of the same village and close relatives; never repeated the offence; settled in life; being the sole bread earners and saddled with the responsibilities of marriageable children, the sentence is reduced to the period already undergone. However, the sentence of fine is enhanced to Rs.One lakh each (1 lakh x 6= 6 lakh) to be paid to all the four injured equally.

21. The present appeal is partly allowed and the judgment and order of the learned trial Court stands modified to the extent indicated above.

11.12.2019
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No