

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

CRA-S-1567-SB-2005

Date of decision: 11.12.2019

Amrik Singh

...Appellant

Versus

State of Punjab

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr.PS Paul, Advocate for the appellant

Mr.AA Pathak, Addl.AG, Punjab

Mr.BS Banga, Advocate for the complainant

JITENDRA CHAUHAN, J.

1. The present appeal is directed against the judgment and order dated 29.8.2005 passed by the Additional Sessions Judge (Adhoc), Fast Track Court, Roop Nagar (for short 'trial Court'), whereby accused-appellant Amrik Singh was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months for the offence punishable under Section 325 IPC and further sentenced to undergo RI for six months and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo RI for one month for the offence punishable under Section 323 IPC. Both the substantive sentences were ordered to run concurrently.

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

“The complainant Jaswinder Kaur has recorded her statement with the police on 17.6.2004 at 3.00 p.m. to the effect that their land is joint with the elder brother of her husband namely Amrik Singh and a bore is spudded in the land for irrigation which is joint, but the diesel engines to operate the bore are separate. Today at about 2.00 p.m. when she and her husband were irrigating their paddy crop then brother -in-law (Jeth) of the complainant namely Amrik Singh came there alongwith his wife namely Swaran Kaur and son Puran Singh and they stated that they had come to irrigate their paddy crop as turn to operate the bore is their today. Then the husband of complainant replied that the turn to operate the bore is of him and turn of brother-in-law would be tomorrow and they would irrigate their land tomorrow. Then immediately Amrik Singh took a danda, which was lying there and gave a blow with the same on the head of the husband of the complainant and the husband of the complainant fell on the belt of diesel engine, which was used to operate to Centrifugal Pump. When the complainant came forward then a blow with danda was given on the backside of head of complainant by Amrik

Singh and the complainant also fell on the belt (Pata) of diesel engine. Then Swaran Kaur gave a soti blow, which hit on the left shoulder of the complainant and another soti blow was given by Puran Singh, which hit on the left leg of the complainant below her knee.

3. The complainant further recorded her statement that the accused caused injuries to Shingara Singh and her and they raised alarm by saying mar ditta mar ditta, which attracted Gurmail Singh and Satya wife of Lchhman Singh, who rescued the complainant and her husband from the accused. The complainant suffered injuries on her fingers and arms due to the fall on a moving belt of diesel engine. The accused ran away from the place of occurrence with their respective weapons by giving abuses to the complainant and her husband.

4. On this statement a D.D.R. No.12 dt.17.6.2004 was recorded and the injured were medically examined at Civil Hospital Chamkaur Sahib. Shingara Singh injured was referred to P.G.I. Chandigarh, where he was admitted and his statement was recorded on 19.6.2004. The medico legal case summary of Shingara Singh was received by the police on 15.9.2004 vide which the injury of Shingara Singh was declared dangerous to life and then the present F.I.R. was registered. Earlier the entry

was made in the D.D.R. as no cognizable offence was made out till the receipt of medico legal case summary from P.G.I. Chandigarh.

3. On completion of the investigation, the challan was presented in the Court. Charges against accused appellant Amrik Singh, Swaran Kaur were framed under Sections 308 & 323 read with Section 34 of IPC, to which he pleaded not guilty and claimed trial. Accused Puran Singh was found juvenile and challan against him was separately filed in the Juvenile Court.

4. To prove its case, the prosecution examined Dr.Vijay Kumar Bhagat as PW1, Dr.Gaytri as PW2, Dr.Rakesh Rajan as PW3, Complainant Jaswinder Kaur as PW4, Gurmail Singh as PW5, Sandeep as PW6, Shingara Singh as PW7, Des Raj Patwari as PW8, ASI Piara Singh as PW9, Dr.Anupam Lal as PW10, Constable Jagdish Singh as PW11, ASI Nirmal Singh as PW 12, HC Didar Singh as PW13 HC Baldev Singh as PW14 and HC Ram Kumar as PW15.

5. After completion of the evidence of the prosecution, 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 innocence. In defence, they examined Gurmail Singh as DW1.

6. After hearing learned counsel for both the parties, learned trial Court convicted and sentenced accused Amrik Singh as noticed in para no.1 hereinabove, whereas by giving the benefit of doubt, Swaran Kaur wife of

Amrik Singh was acquitted of the charges framed against her.

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

8. At the very outset, learned counsel for the appellant states the injured and the accused are the real brothers and now the matter has been compromised between the parties, he does not want to argue on merits of the case and the sentence of the appellant may be reduced to the one already undergone. A close examination of the prosecution evidence reveals that the findings returned by the learned trial Court for arriving at the conclusion that the charge has been established against the accused are based on correct appreciation of evidence on record. Sequel, the conviction is maintained.

9. 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”

10. In the present case, learned counsel for the complainant admits the factum of compromise and he has placed on record the affidavit of injured Shingara Singh, which is taken on record as Mark 'A'.

11. The sentence of the appellant was suspended by this Court on 9.9.2005. The FIR in the instant case was registered in the year 2004. The appellant has suffered protracted trial of more than 15 years. Both the parties are the family members. Nothing has been pointed out by the learned counsel for the State that the appellant has misused the concession of bail during the pendency of the appeal and repeated the offence, therefore, in my considered opinion, the ends of justice would be met if the sentence of imprisonment awarded to the appellant is reduced to the period already undergone by him. However, the sentence of fine shall remain the same.

12. 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