

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S-1876-SB-2013
Reserved on : 28.08.2019
Date of decision : 03.09.2019

Naveen and others

... Appellants

Versus

State of Haryana

... Respondent

CORAM: *HON'BLE MR. JUSTICE RAJIV SHARMA*
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

Present: Mr. Ramesh Hooda, Advocate
for the appellants.

Mrs. Shubhra Singh, Addl.A.G. Haryana.

RAJIV SHARMA, J.

This appeal has been instituted against the judgment and order dated 10.05.2013 and 15.05.2013 rendered by the Additional Sessions Judge, (Exclusive Court), Jhajjar, in Sessions case no.68 of 2009/2013 (RBT) whereby the appellants were charged with and tried for offences punishable under Sections 323, 324 read with Section 34 of the Indian Penal Code (in short 'IPC'). The appellants were convicted and sentenced as under:-

I	To undergo rigorous imprisonment for six months and to pay a fine of Rs.500/- each, for the commission of offence under Section 323/34 IPC and in default of payment of fine to undergo simple imprisonment for one month.
II	To undergo rigorous imprisonment for one year and to pay a fine of Rs.1000/- each, for the commission of offence under Section 324/34 IPC and in default of payment of fine to undergo further simple imprisonment for two months.

Both the sentences were ordered to run concurrently.

2. The case of the prosecution in a nutshell is that on 20.05.2009 a

medical ruqa and MLR were received in police station regarding hospitalization of Vikas son of Balle Ram, Balle Ram son of Mam Chand and Roshan Lal son of Mam Chand due to injuries suffered in a fight. A formal FIR Ex.P4 was registered by ASI Dharambir. Investigation was carried out. The Medical Officer found five injuries on the person of Vikas. Injury no.1 was opined to have been caused by sharp edged weapon. Injuries no.2 to 5 were opined to have been caused by blunt weapon. Two injuries were noticed by the Medical Officer on the person of Balle Ram. These were caused by blunt weapon. A cross rapat was also registered against the complainant side. Roshan Lal died in PGIMS, Rohtak, on 31.05.2009. Thereafter, the charge was altered from Section 308 IPC to Section 304 IPC against the complainant. Challan was put up after completing all the codal formalities.

3. Prosecution examined a number of witnesses. The statements of accused were also recorded under Section 313 Cr.P.C. They have denied the case of the prosecution. The appellants were convicted and sentenced as noticed hereinabove. Hence this appeal.

4. Learned counsel appearing for the appellants has vehemently argued that the prosecution has failed to prove the case against the appellants.

5. Learned counsel appearing on behalf of the State has supported the prosecution case.

6. We have heard learned counsel for the parties and have gone through the judgment and record very carefully.

7. PW-1 Dr.Yogender Kumar had medico legally examined Vikas.

He noticed following injuries on his person:-

- “1. An incised wound size 2” x 2 mm x 1 mm on frontal bone of skull. Bleeding was present. Advised X-ray skull. Kind of weapon was sharp.*
- 2. Lacerated wound on right parietal bone size 2” x 2 mm, skin deep. Bleeding was present. Complaining of pain. Advised X-ray skull. A.P./Lateral view. Weapon used was blunt.*
- 3. A bruise size 2 cm x 3 cm on right scapula. Complaining of pain. Nature of injury was simple. Weapon used was blunt.*
- 4. A bruise size 1 cm x 1 cm on right knee joint. Complaining of pain. Nature of injury simple. Weapon blunt.*
- 5. An abrasion on left index finger base on dorsum, size ½ cm x ½ cm. Complaining of pain. Nature of injury was simple. Weapon used was blunt.”*

Injury no.1 was caused by sharp edged weapon. Injuries no.2 to 5 were caused by blunt weapon. Balle Ram was also medico legally examined by PW-1 Dr.Yogender Kumar. He noticed the following injuries on his person:-

- “1. An abrasion 2” x 1 ½” in size on dorsum of left hand. Skin sloughed off. Bleeding present. Complaining of severe pain. Advised X-ray left hand palm. A/P Lateral view.*
- 2. Dislodgement of lower incisor tooth. Bleeding present. Complaining of pain. Advised Dental Surgeon's opinion. Kind of weapon used was blunt.”*

Both injuries were caused by blunt weapon.

8. PW-3 Dalel Singh had completed the investigation. He put up

the challan.

9. PW-4 Balle Ram deposed that on 20.05.2009 at about 8.00 P.M. he along with Vikas was coming from their fields. They heard hue and cry near the house of Roshan. He asked his son Vikas to inquire about the matter. When Vikas had gone to inquire the matter, Parveen inflicted *farsa* blow on the head of Vikas. Vikas raised hue and cry. He reached on the spot. Parveen had given *farsa* blow from back side on his left hand. Thereafter, Sumitra had thrown stones towards him. Thereafter, Sumitra, Monika, Parveen and Naveen went away from the spot. In his cross-examination, he deposed that police did not record his statement regarding the occurrence. Volunteered the police met him after 31.05.2009. The agricultural land and plots were partitioned by him in the year 2007. Roshan was having 1/3rd share in the entire property. There was no dispute regarding the plots in question. He denied the suggestion that Surrender gave a blow of iron rod on the head of Roshan Lal. He also denied the suggestion that Tarapati, Vikas, Sombir, Om Parkash and Parkasi came on the spot. He also denied the suggestion that Anil and Ashok came in the car.

10. PW-5 Vikas deposed that he along with his father was coming from their agricultural fields on 20.05.2009 at about 8.00 P.M. They heard the noise. They went to inquire the matter. Parveen inflicted *farsa* blow on his head. Naveen also inflicted *farsa* blow on his head. In cross-examination, he denied the suggestion that on 20.05.2009 at about 9/10.00 P.M. when Sumitra was standing near the gate of her house, her husband had gone to a shop for purchasing biri/cigarette. He denied the suggestion that Surrender had given blow of iron rod on head of Roshan Lal. He denied the suggestion that Surrender called other persons at the spot, i.e. Balle Ram,

Tarapati, Sombir, Om Parkash and Parkasi. He denied the suggestion that Sumitra called her family members to save her husband. The car never came on the spot.

11. PW-4 Balle Ram has categorically deposed that Parveen inflicted *farsa* blow on the head of Vikas. PW-5 Vikas has deposed that Parveen had given *farsa* blow on his head. Naveen had also inflicted *farsa* blow on his head. Vikas had received five injuries as per MLR duly proved by PW-1 Dr.Yogender Kumar. Injury no.1 was caused by sharp edged weapon. Injuries no.2 to 5 as per MLR, were caused by blunt weapon. PW-4 Balle Ram had also received two injuries which were caused by blunt weapon. No specific role has been attributed to Sumitra except they had thrown stones towards PW-4 Balle Ram. Injuries have been caused to PW-4 Balle Ram and PW-5 Vikas by Parveen and Naveen.

12. Learned counsel appearing on behalf of the appellants has vehemently argued that appellant Parveen was student of BBA at the time of incident. He has no previous criminal record. Appellant Naveen was student of B.Com.

13. The prosecution has proved that the appellants Parveen and Naveen have caused injuries to PW-4 Balle Ram and PW-5 Vikas.

14. Accordingly, the appeal is partly allowed. Appellant Sumitra is acquitted of the charges framed against her. The conviction of appellants Parveen and Naveen is upheld but their sentence is reduced to 3 months from 6 months and fine is also reduced to Rs.250/- each from Rs.500/- each for the offence under Section 323 read with Section 34 IPC. Their sentence is also reduced to 3 months from one year and fine is also reduced to Rs.500/- each from Rs.1000/- each. The Court is of the considered opinion

that taking into consideration the age of the appellants, they can be given benefit under the Probation of Offenders Act, 1958. Accordingly, the Probation Officer/Welfare Officer is directed to file a report within one month from today after ascertaining the antecedents and past conduct of the appellants. Report be filed on 17.10.2019.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

September 03, 2019.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No