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

**CRA-S-925-SB-2005**  
**Date of Decision : March 13, 2019**

Inderjit Singh alias Sonu ..... Appellant

Versus

State of Punjab ..... Respondent

**CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.**

Argued by Mr. P.S.Paul, Advocate,  
for the appellant.

Mr. Prabhjot Singh Walia, AAG, Punjab,  
for respondent-State .

**SHEKHER DHAWAN, J.**

Present appeal is directed against the judgment of conviction and order of sentence dated 30.04.2005, passed by learned Additional Sessions Judge-cum-Presiding Officer, Fast Track Court, Rup Nagar, whereby appellant - Inderjit Singh alias Sonu was convicted and sentenced as under:-

| Under Section | Sentence                                                                                     | In default                                          |
|---------------|----------------------------------------------------------------------------------------------|-----------------------------------------------------|
| 325 IPC       | to undergo Rigorous Imprisonment for a period of Three years and to pay a fine of Rs.3,000/- | to further undergo R.I. for a period of one year.   |
| 324 IPC       | to undergo Rigorous Imprisonment for a period of Two years and to pay a fine of Rs.2,000/-   | to further undergo R.I. for a period of six months. |
| 323 IPC       | to undergo Rigorous Imprisonment for a period of Six months and to pay a fine of Rs.1,000/-  | to further undergo R.I. for a period of Two months. |

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2. Facts relevant for the purpose of decision of the appeal; that on on 18.04.2001 at 12.30 PM, Karandeep Singh, complainant made a statement before the Police in PGI that he was working in Sood Goods Company, Sector 26, Chandigarh and prior to that, he established a factory in the name and style of M/s Angad Paper Mill Pvt. Limited in which, he was Director. The said factory is lying closed since 1996-97. He had employed one Mohinder Singh as Chowkidar against salary of Rs.1800/- per month for the protection of machinery kept in the factory. On 17.4.2001 at about 10.30 PM, he was informed by Jagjeevan Lal, Sarpanch on telephone that Sona alongwith two other persons inflicted injuries on the person of Mohinder Singh in order to kill him and he was being taken to PGI, Chandigarh. He further stated that the reason for the occurrence was that accused Sona entered in the factory with an intention to commit theft and he was seen by Mohinder Singh and the complainant had given warning to accused Sonda. Due to this enmity the injuries were caused to Mohinder Singh, Chowkidar. On the basis of statement, formal FIR (Ex. PW-5/E) was recorded.

3. After completion of investigation proceedings, challan was presented in the Court for trial.

4. During trial, learned Court below completed various proceedings of trial including framing of charge against the accused, recording of evidence of the witnesses and examination of accused under Section 313 Cr.P.C. After considering the prosecution and the defence evidence on record, learned trial Court held the appellant guilty and convicted him for commission of offence punishable under Sections 323, 324 and 325 IPC and sentenced him vide order dated 30.04.2005 as

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mentioned in para No.1 above.

5. Aggrieved of passing of judgment of conviction and order of sentence, the appellant is before this Court by way of present appeal.

6. Learned counsel for the appellant contended that the alleged occurrence had taken place on 18.04.2001 and initially there were three accused. Appellant – Inderjit Singh faced the trial whereas accused Sikandar Kumar was declared as Proclaimed Offender and the other accused, namely, Parladh Singh alias Pali was a juvenile and he was acquitted after trial. During trial against the present appellant – Inderjit Singh, the only injured Mohinder Singh was never examined by the prosecution and the prosecution case is based upon the testimonies of two eye-witnesses, namely, Jagtar Singh (PW-10) and Jagjeevan Lal (PW-11), which are full of material contradictions.

7. Learned counsel for the appellant also contended that the name of the present appellant was not found mentioned in the First Information Report available with the Police and the learned trial Judge completely ignored all these facts and recorded judgment of conviction for offence punishable *inter alia* under Section 325 IPC, whereas acquitted him under Section 307 IPC.

8. Learned State counsel while arguing on this point contended that injured Mohinder Singh died during the trial, though his statement was recorded earlier and his statement is otherwise admissible as per law. Both the eye-witnesses namely, Jagtar Singh (PW-10) and Jagjeevan Lal (PW-11) have given minute details of the occurrence and role of the present appellant. The ocular testimony is duly supported by medical evidence and documentary evidence whereas, the defence version is plea

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of denial only, which does not find any support of corroboration and the Court below has rightly discarded the defence and the present appeal is without any merit and the same be dismissed.

9. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case, this Court is of the considered view that learned trial Judge has already considered all these aspects while recording judgment of conviction against the present appellant – Inderjit Singh alias Sonu. Learned trial Judge appreciated the statements of Jagtar Singh (PW-10) and Jagjeevan Lal (PW-11) and their respective cross-examination as well and found that their testimony was believable and as such relied upon the same. The ocular testimony is corroborated by testimony of Dr.Puneet Mittal (PW-15), who in his MLR report (Ex.PW-15/A) observed following injuries:-

|    |                                                                                         |
|----|-----------------------------------------------------------------------------------------|
| 1  | Fracture soh (Shaft of humerous) left side (left arm whole plastered).                  |
| 2  | Comminuted fracture mandible.                                                           |
| 3  | Compound fracture maxilla                                                               |
| 4  | Incised wound on the chest wall on the right side around 5 cm over 2-3" rib (stitched). |
| 5  | Incised wound over left arm over shoulder (4 cm) and left forearm (3 cm).               |
| 6  | Incised wound 7 cm long on right back. 4 cm incised wound left back upper region.       |
| 7  | 12x1 cm laceration on left check (stitched)                                             |
| 8  | Multiple laceration of lower lip (full thickness)                                       |
| 9  | Left ear avulsed and shatted into three pieces (dressed and stitched).                  |
| 10 | Head injury required Neuro-surgery consultation.                                        |
| 11 | Degloving injury of left posterior ouricular and nape of neck (stitched and dressed).   |

10. PW-14, Dr. R.K.Jain, Head of Plastic Surgery PGI, Chandigarh proved case summary (Ex. PW-12/A) and observed the nature of injuries

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on the person of Mohinder Singh as grievous. Against the above discussed prosecution evidence, the defence version is plea of denial only which has rightly been negated by learned trial Judge and there are no grounds to set-aside the judgment of conviction dated 30.04.2005 recorded by learned Additional Sessions Judge, Fast Track Court, Rup Nagar.

11. On the point of sentence, learned counsel for the appellant contended that the appellant is not habitual offender and previous convict and his conviction is *inter alia* under Section 325 IPC. Therefore, the order of sentence may be modified and the appellant be given the benefit of probation under the Probation of Offenders Act, 1958.

12. In the present case, certainly there are grounds to modify the order of sentence qua the appellant and if he is ordered to be released on probation to lead peaceful life, that shall give him an opportunity to settle in life. Such a view was taken by Hon`ble Supreme Court in **Hari Kishan and States of Haryana Vs. Sukhbir Singh, 1988(2) R.C.R. (Criminal) 394** and by this Court in **State of Punjab Vs. Kuldip Singh and others, 2007(2) R.C.R. (Criminal) 670** and **Ram Kumar Vs. State of Haryana, 2000 (1) R.C.R. (Criminal) 771**, wherein it has been held that the accused persons involved in such like cases, who are not previous convicts and not habitual offenders, can be extended the benefit of probation under the Act. Accordingly, the order of sentence passed by learned trial Court is modified and the present appellant is ordered to be released on probation on furnishing probation bonds in the sum of Rs. 20,000/- with one surety in the like amount each for a period of one year.

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13. Resultantly, the present appeal stands partly allowed in the above terms.

**(SHEKHER DHAWAN)**  
**JUDGE**

**March 13, 2019**  
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|----------------------------|---|-----|
| Whether speaking/reasoned? | : | Yes |
| Whether reportable?        | : | Yes |