

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) CRR-8-2009(O&M)
Date of Order: 19th September, 2019

Janti Singh @ Janta and another ...Petitioners

Versus

The State of Punjab ...Respondent

(2) CRR-600-2009(O&M)

Seera Singh ...Petitioner

Versus

The State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajinder Kumar Singla, Advocate,
for the petitioners (n both the petitions).
Mr. Bhupender Beniwal, AAG, Punjab

ANIL KSHETARPAL, J.

By this judgment CRR Nos.8 and 600 of 2009 shall stand disposed of arising from a common judgment passed by learned Judicial Magistrate Ist Class., Talwandi Sabo dated 20.07.2007.

In brief, the case of the prosecution is that on 26.10.2000 information was received from Medical Officer, Civil Hospital Maur that Ruldu Singh son of Sukhdev Singh, resident of Village Maur Kalan is admitted in the hospital having suffered injuries. Initially, doctor declared him unfit to make a statement. However, after some time, it came to the notice that the injured has been referred to Civil Hospital, Bathinda and thereafter he was referred to Patiala. As per the statement, Harnek Singh son of Dhana Singh got recorded his statement wherein it was stated that last night at about 8.00PM Ruldu Singh was going along with Harnek Singh

who was 5/7 karam ahead towards the house of Ruldu Singh. When they reached near house of Tej Singh, near a small bridge (pully), Seera Singh armed with iron rod, Janti Singh armed with Kirpan and Keepi Singh armed with iron rod present there proclaimed that Ruldu Singh had not allowed them to stand near the bridge and required to be taught lesson. Thereafter, Janti Singh gave kirpan blow, which hit over his right eye, Seera Singh gave rod blow which hit on the left jaw, Keepi Singh gave rod blow which hit eye of Ruldu Singh, on which Ruldu Singh fell down and all accused caused injuries to him with their respective weapons. Janti Singh also gave a kirpan blow which hit over left eye near the ear and Seera Singh gave rod blow on the left shoulder and Keepi Singh gave blow with his rod which hit on the right ear and right cheek. On making noise, Tej Singh came on the spot and all the accused fled away. It was recorded that at the time of Diwali festival, there was sufficient light and the reason for attack is that the accused along with other person used to sand on the bridge and Ruldu Singh used to forbid them from doing so.

Prosecution in order to prove its case got recorded statement of Harnek Singh PW1, Ruldu Singh, PW2, Dr.Pawan Kumar PW3, Dr. Niranjana Lal Garg, PW4, Dr. Maninder Singh PW5, Dr. Sukhbir Singh PW6 and ASI Gurdial Singh PW7.

The statements of the accused under Section 313 Cr.P.C were recorded and all the incriminating material and circumstances appearing in the evidence were put to them giving them opportunity to explain their position to which they denied and pleaded false implication.

In defence evidence, Tej Singh was examined as DW1 and Gurjit Singh was examined as DW2.

On appreciation of evidence, learned Judicial Magistrate Ist class found all the three petitioners-convicts guilty of the offence and sentenced them in a following manner:-

<i>Sr. No.</i>	<i>Name of Accused</i>	<i>Offence</i>	<i>Imprisonment</i>	<i>Fine</i>	<i>In default</i>
1	Janti	326 IPC	3 years RI	1000/-	On month
2	Keepi	326/34 IPC	3 years RI	1000/-	On month
3	Seera	326/34 IPC	3 years RI	1000/-	On month
4	Keepi	325 IPC	3 years RI	1000/-	On month
5	Seera	325/34 IPC	3 years RI	1000/-	On month
6	Janti	325/34 IPC	3 years RI	1000/-	On month
7	Janti	324 IPC	2 years	500/-	15 days
8	Keepi	324/34 IPC	2 years	500/-	15 days
9	Seera	324/34 IPC	2 years	500/-	15 days
10	Seera	323 IPC	6 months	500/-	15 days
11	Keepi	323 IPC	6 months	500/-	15 days
12	Janti	323/34 IPC	6 months	500/-	15 days

Two separate appeals were filed. Learned Additional Sessions Judge, after re-appreciating the evidence dismissed the appeal.

Learned counsel for the petitioners has submitted that since Dr. Ratna Gaba, Junior Resident X-Ray Department, Rajindra Hospital, Patiala has not been examined, although cited as prosecution witness at Sr. No.12 in the police report, therefore, offence under Section 326 IPC is not made. He further submitted that place of occurrence has not been established as no bridge (pulli) has been depicted in the lay out plan. In the lay out position/location of Harnek Singh has also not been depicted. He further submitted that weapons of the offence were not shown to the doctor. He further submitted that evidence of PW5 and PW6 was not put to the accused at the time of recording their statements under Section 313 Cr.P.c.

On the other hand, learned counsel for the State has defended the judgments passed by the courts and has submitted that the prosecution

has examined as may as 4 doctors. He further submitted that evidence of PW5 and PW6 is not of much relevant and therefore, the judgments which have been passed by the courts below cannot be set aside on this ground alone. While elaborating he submitted that PW5 is Dr. Manjiner Singh Brar an eye specialist. He further submitted that PW6 is Dr. Sukhbir Singh Chauhan who has only produced medical evidence of discharge of Ruldu Singh from the hospital along with x-ray films and x-ray reports.

No doubt, Dr. Ratna Gaba, has not been examined, however, enough evidence to prove the injuries to victim-Ruldu Singh has been produced. Four doctors as rightly contended by learned counsel for the State have been examined. It is clear from the statement of Dr. Narinjan Lal Garg that he had proved his opinion Ex.PW4/D1 and Ex.PW4/E1 that more than one injury was declared grievous in nature. Ruldu Singh had also suffered two fractures. He remained unconscious and admitted in hospital for a period of 23 days. The statement of Dr. Narinjan Lal Garg, who had appeared as PW4 proves that Ruldu Singh had suffered grievous injuries. This opinion was given by Dr. Narinjan Lal Garg on the basis of x-ray report. Both the reports Ex.PW4/D1 and Ex.PW4/E1 has been proved by the doctor. Hence, it cannot be said that the prosecution has failed to prove the X-ray reports. On careful examination of Ex.PW4/D1, it has been declared that injuries no.1, 2, 6 and 9 are grievous in nature whereas injuries no.3,4,5,7 and 8 are simple in nature. This opinion is dated 19.12.2000. On careful examination of Ex.PW4/E1 the doctor declared that injuries no.1,2 and 4 are inflicted with sharp edge weapons and remaining are with blunt weapons. Hence, mere non-examination of Dr.Ratna Gaba does not adversely affect the prosecution.

As regards other arguments of learned counsel for the petitioners, it may be noted that the prosecution has put to the petitioners all incriminating material and circumstances. No doubt, specific reference to the statements of PW5 and PW6 has not been made. However, PW5 is only an eye surgeon, whereas PW6 has produced X-ray report and discharged certificate of Ruldu Singh.

Next submission of learned counsel that the lay out plan does not depict the bridge/pulli where the occurrence took place is also to be noticed and rejected because the prosecution in this case has examined Harnek Singh, the eye witness and the first information as also Ruldu Singh-injured. Both have consistently supported the case set up by the prosecution. The evidence of Harnek Singh and Ruldu Singh is also corroborated by four doctors and Investigating Officer Gurdial Singh. Hence, there is no substance even in the arguments of learned counsel for the petitioners.

In the end learned counsel for the petitioners submitted that the lenient view be taken because the occurrence took place on 26.10.2000 when Janti Singh was aged about 20 years, Keepi Singh was 19 years and Seera Singh was 20 years. He submitted that 19 years have elapsed and all the petitioners have already undergone more than 7 months imprisonment. He further submitted that the petitioners are first time offenders having no criminal background before the occurrence or there is no overt act attributed to the petitioners after the occurrence. He further submitted that the petitioner have already suffered protracted criminal prosecution for a period of 19 years.

This court on consideration of the matter finds that there is

some substance in the last argument of learned counsel for the petitioners. Petitioners were young boys at the time of occurrence. Now all of them are in and around 40 years of age. They do not have any criminal background. All of them are first time offenders. No overt act after the occurrence in question is attributed to the petitioners. No doubt, the sentence undergone by them is not even one year, however, keeping in view the fact that the petitioners were released on suspension of sentence in the year 2009 and more than 10 years have elapsed even thereafter, therefore the sentence awarded to the petitioners is reduced to the period already undergone. This order has been passed in the peculiar facts and circumstances of the present case and shall not be treated as a precedent.

With these observations, both the petitions are disposed of.

19th September, 2019
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(ANIL KSHET ARPAL)
JUDGE

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