

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-474-SB-2001 (O&M)
Date of decision: 13.02.2020

Bhagwan Singh and others
...Appellants

Versus

The State of Haryana
...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Paras Talwar, Advocate,
for the appellants.

Mr. Vikrant Pamboo, DAG, Haryana.

Ms. Sarbhjeet Kaur, Advocate,
for Mr. D.S. Brar, Advocate,
for the complainant.

Jitendra Chauhan, J.

Challenge in the instant appeal is to impugned judgment of conviction dated 12.04.2001 and order of sentence dated 17.04.2001, (hereinafter referred to as the impugned judgment'), passed by learned Additional Sessions Judge, Faridabad (for short, 'the trial Court'), whereby, all the appellants have been convicted and sentenced as under:-

Ram Lal

Conviction	Sentence	Fine	Default stipulation
Section 148 IPC	RI for 01 year	₹500/-	RI for 02 months
Section 323 IPC	RI for 03 months	₹300/-	RI for 01 month
Section 307 IPC	RI for 05 years	₹3000/-	RI for 01 year

Khazan Singh

Conviction	Sentence	Fine	Default stipulation
Section 148 IPC	RI for 01 year	₹500/-	RI for 02 months
Section 323 IPC	RI for 03 months	₹300/-	RI for 01 month
Section 307 IPC	RI for 05 years	₹3000/-	RI for 01 year

Bhagwan Singh

Conviction	Sentence	Fine	Default stipulation
Section 148 IPC	RI for 01 year	₹500/-	RI for 02 months
Section 323 IPC	RI for 03 months	₹300/-	RI for 01 month
Section 307 IPC	RI for 03 years	₹2000/-	RI for 01 year

Shish Pal

Conviction	Sentence	Fine	Default stipulation
Section 148 IPC	RI for 01 year	₹500/-	RI for 02 months
Section 323 IPC	RI for 03 months	₹300/-	RI for 01 month
Section 307 IPC	RI for 03 years	₹2000/-	RI for 01 year

Roop Chand

Conviction	Sentence	Fine	Default stipulation
Section 148 IPC	RI for 01 year	₹500/-	RI for 02 months
Section 323 IPC	RI for 03 months	₹300/-	RI for 01 month
Section 307 IPC	RI for 03 years	₹2000/-	RI for 01 year

Har Pal

Conviction	Sentence	Fine	Default stipulation
Section 148 IPC	RI for 01 year	₹500/-	RI for 02 months
Section 323 IPC	RI for 03 months	₹300/-	RI for 01 month
Section 307 IPC	RI for 03 years	₹2000/-	RI for 01 year

Bhajan Lal

Conviction	Sentence	Fine	Default stipulation
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Section 148 IPC	RI for 01 year	₹500/-	RI for 02 months
Section 323 IPC	RI for 03 months	₹300/-	RI for 01 month
Section 307 IPC	RI for 03 years	₹2000/-	RI for 01 year

Kamal

Conviction	Sentence	Fine	Default stipulation
Section 148 IPC	RI for 01 year	₹500/-	RI for 02 months
Section 323 IPC	RI for 03 months	₹300/-	RI for 01 month
Section 307 IPC	RI for 03 years	₹2000/-	RI for 01 year

Ram Singh

Conviction	Sentence	Fine	Default stipulation
Section 148 IPC	RI for 01 year	₹500/-	RI for 02 months
Section 323 IPC	RI for 03 months	₹300/-	RI for 01 month
Section 307 IPC	RI for 03 years	₹2000/-	RI for 01 year

However, all the sentences were ordered to run concurrently.

Brief facts of the case are that on 20.6.1996 ASI Hans Raj, Police Station Old Faridabad, received a rukka from Escorts Medical Centre, Faridabad, regarding admission of Mahesh and Vijay Pal in injured condition. He alongwith other police officials reached the hospital. The doctor opined that both the injured persons were not fit to make the statements. No other person was available to give narration about the incident. On 21.6.1996 Sh Chander Pal son of Shiv Charan resident of village Riwajpur, aged 55 years who was father of Mahesh Kumar, met the police and who made his statement Ex.PA before ASI which reads as below:

“I am resident of village Rivajpur and am an agriculturist. I have two sons, elder being Naresh and younger being Mahesh Kumar. Yesterday i.e. on 20.6.1996, my son Mahesh

Kumar and my sister's son (Bhanja) Vijay Pal went to our Ghair to sleep during night. Myself and Harpal son of Des Raj also went towards our Ghair in routine. In the meanwhile Ram Lal son of Parmanand, Bhagwan Singh and Khazan Singh sons of Ram Lal, Roop Chand and Har Pal sons of Ghasita, Kamal son of Tika, Bhajan Lal son of Dhure, Shish Pal son of Bhajan Lal, Ram Singh son of Sohan Lal, Harijan, residents of village Riwajpur and other 6-7 persons, whose names are not known to me but I can recognise them on their appearance, armed with country made pistols, lathis, ballams entered into our Ghair. Ram Lal gave a lalkara that both of them (Mahesh and Vijay) be killed and they should not be allowed to escape. Ram Lal fired two gun shots towards my son and my nephew (sister's son). Both of them ran out of fear and laid on the ground. Bhagwan Singh and Khazan inflicted lathi blows on the head of Mahesh. Roop Chand, Kamal, Har Pal and two other persons caused injuries with lathi and ballams. Roop Chand and Kamal gave lathi blows on the left hand while Har Pal and other two persons inflicted blows on the feet. Shish Pal, Bhajan Lal and Ram Singh son of Sohan Lal and other two persons gave lathi and ballam blows to my nephew Vijay Pal which hit him on the head, hands and feet. Both of them raised an alarm hearing which Pardeep son of Jagdish reached the spot. We all three rescued Mahesh and Vijay from the clutches of the accused persons. Otherwise they would have done them to death. While leaving, those persons threatened to kill these persons in future. The motive for causing injuries

was dispute about land.”

Upon completion of investigation and presentation of challan, charges under Sections 148, 323, read with Section 149 and Section 307 read with Section 149 IPC were framed against the accused to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Chander Pal as PW-1; Mahesh Kumar as PW-2; Vijay Pal as PW-3; Harpal as PW-4; ASI Vishnu Dutt as PW-5; Ashok Kumar, Draftsman as PW-6; Dr. V.R. Gupta as PW-7; Ved Parkash as PW-8; SI Prem Singh as PW-9; ASI Hans Raj as PW-10; Dr. Alok Gupta as PW-11.

When examined under Section 313 Cr.P.C., the accused denied all the allegations and pleaded false implication. In defence, they examined Kamal Singh, Naib Tehsildar as DW-1; Nawal Kishore as DW-2; and Rattan Singh as DW-3.

After hearing learned counsel for the parties and appreciating the material produced on record, learned trial Court convicted and sentenced the accused-appellants as noticed at the outset of this judgment.

Hence, the instant appeal.

Before proceeding further, it is considered apposite to note here that appellant Nos.5 to 8 have since died and the instant appeal qua them abates.

Learned counsel for the appellants contends that there is unexplained and inordinate delay in lodging the FIR. The alleged incident took place at about 10.00 p.m. on 20.06.1996, whereas, the FIR came to be registered on 21.06.1996 at about 12.10 p.m. Further, the medical evidence

is contradictory to the ocular version. The appellants have been falsely implicated owing to the pending land dispute between the complainant and appellant No.8.

Learned State counsel has opposed the instant appeal. It is contended that all the prosecution witnesses have supported the case of the prosecution.

Heard learned counsel for the parties and carefully perused the record.

In the instant case, the alleged occurrence took place on 20.06.1996 at about 10.00 p.m. The complainant along with the injured reached the hospital at about 11.00 p.m. On receipt of rukka, the police reached the hospital and sought opinion of the doctor whereby the injured was declared unfit to make statement. On 21.06.1996, opinion of the doctor was again sought and again the injured was declared unfit to make statement. Thereafter, on the statement of the complainant, Chander Pal, the FIR was got registered at about 12.10 p.m. Therefore, the assertion with regard to delay in lodging the FIR deserves to be rejected.

As far as the injuries are concerned, there are two injured in the present case, namely, Vijay Pal and Mahesh. As per the MLR Ex.PC, following four injuries were noticed on the person of Vijay Pal:-

1. Swelling and abrasion in the centre of forehead.
2. Abrasion left shoulder region.
3. Clean lacerated wound around 1 X ½ X ½ cm on left parieto occipital region.
4. Tenderness in the chest region.

The said injuries have been attributed to as many as nine persons.

Similarly, as per Ex.PD, MLR of Mahesh, the following six injuries were noticed on his person:-

1. Abrasion over left cheek.
2. Abrasion over left shoulder.
3. Abrasion and swelling right wrist joint.
4. Clean lacerated wound on scalp in parieto occipital region.
5. Tenderness in chest
6. Tenderness in dorsolumbar region.

Out of the six injuries, three were abrasions and two were tenderness only. One injury was found on the scalp in Parieto Occipital region.

As regards the attributions, Bhagwan Singh, appellant No.1 is alleged to have given lathi blow on the head of Mahesh as well as Vijay Pal. However, no such injuries were found on either of the injured. Appellant No.2 Khazan Singh has been attributed injury from the sharp side with *ballam*, however, as per the medical evidence, the alleged injury was caused with a blunt weapon. Thus, the only injury which was declared dangerous to life was specifically attributed to appellant No.2 which has been rendered doubtful. Rest of the injuries on the person of the injured were simple in nature. Moreover, in the FIR, Khazan Singh is alleged to be armed with a *lathi* but the complainant made an improvement in the Court and deposed that appellant No.2 was armed with a *Ballam*. No specific injury/role has been attributed to appellant Nos.3 and 6, namely, Shish Pal and Ram Singh, respectively. Appellant No.8-Ram Lal is alleged to be armed with a gun

was recovered from the spot.

Further, the complainant while deposing in the Court has stated that Ram Lal, appellant No.8 was armed with a double-barrel gun and he had fired shots aiming at the injured but they save their lives by laying on the ground. However, during the cross-examination, this witness has admitted that during the period the accused were inflicting injuries upon the injured. He only fired while running away from the spot.

When the above discrepancies are considered in the light of the defence version that the appellants have been implicated at the instance of the complainant out of grudge owing to the pendency of civil disputes between the complainant and appellant No.8-Ram Lal, the prosecution story is rendered highly doubtful and the benefit thereof deserves to be extended to the accused-appellants.

Considering the above, this Court feels that the prosecution has failed to prove its case against the accused-appellants beyond the shadow of reasonable doubt. Accordingly, the instant appeal is allowed; impugned judgment is hereby set aside; and the appellants are acquitted of the charges framed against them by giving them benefit of doubt. The appellants are stated to be on bail. Their bail bonds shall stand discharged.

Allowed.

(JITENDRA CHAUHAN)
JUDGE

13.02.2020

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Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No