

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-1459-SB-2004

Reserved on: 17.11.2022

Date of Decision: 18.11.2022

Wazir Singh and another

...Appellants

VS.

State of Haryana

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Argued by : Mr. Kulvir Narwal, Advocate
for the appellants.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

The appellants have challenged the judgment and order dated 22.05.2004 passed by the learned Additional District and Sessions Judge, (Adhoc), Jhajjar, whereby, the appellants have been convicted under Sections 323, 324, 325 and 34 of IPC.

The FIR in the instant case was registered on the basis of the statement made by Krishna Devi w/o Ramphal, complainant, who alleged that at about 9.00 am on 07.04.2000, Sat Narain, elder brother of her husband was being beaten up by both the accused, namely, Wazir Singh and Raj Singh, in front of their house. On hearing the noise, Krishna Devi came out of her house and saw that Raj Singh and Wazir Singh, accused, were giving beating to Sat Narain, while Brahma Devi w/o Sat Narain and Angrejo w/o Partap Singh were trying to rescue him from the clutches of the assailants. The complainant

rushed to the spot and tried to save him, on which Wazir Singh gave two pharsa blows at her head. Ashok Kumar, accused, who was also carrying a pharsa in his hand, reached at the spot and gave a blow with pharsa at Brahma Devi, aiming her head. Raj Singh, who was also carrying a pharsa in his hands, gave a blow with pharsa at the head of the complainant, and also gave another pharsa blow to her near her nose. Another accused, Vijay also reached at the spot and aimed a lathi blow, which lended on the leg of Angrejo and he gave another lathi blow on her hand. He also gave a lathi blow to the complainant on her face. They raised the alarm to save them and on hearing the same, the accused ran away from the spot along with their respective weapons.

The three injured, namely, Brahma Devi, Angrejo and Krishna Devi were shifted to Civil Hospital, Bahadurgarh, where they were admitted and their MLRs were prepared. Since Krishna was having serious injuries, she was referred to PGIMS, Rohtak. The medical ruqa was sent to the police station along with MLRs of the injured and the police from the Police Post, Badli arrived in Police Station, Sadar, Bahadurgarh and went to Civil Hospital, Bahadurgarh. Brahma Devi and Angrejo had since been discharged from the hospital, whereas, Krishna Devi had already been referred to PGIMS, Rohtak. After obtaining the opinion of the doctors regarding the fitness of injured Krishna, her statement was recorded as Ex.PF, which was read over to her and explained and as a token of its correctness, she had put her thumb impression on the same.

Thereafter, the investigation formally commenced and the police presented the challan against four accused, namely, Raj Singh, Wazir Singh, Ashok and Vijay Kumar. On finding a *prima facie* case, the charges were

ordered to be framed against the accused under Sections 323, 324, 325, 307 and 34 of IPC to which they pleaded not guilty and claimed trial. After holding the trial, vide the impugned judgment, the learned trial Court acquitted Raj Singh and Vijay of the charges, whereas, on the other hand, the learned trial Court held that no offence under Section 307 IPC was made out against the remaining two accused, namely, Wazir Singh and Ashok also; however, Ashok and Wazir Singh were convicted under Sections 323, 324, 325 IPC and both the accused were ordered to be released on probation on furnishing their surety bonds in the sum of Rs.10,000/- each to keep peace and be of good behaviour during the period of two years. Both the them were also directed to pay a sum of Rs.5,000/- each, as compensation amount to Krishna Devi - injured.

Assailing the impugned judgement of conviction, the appellants have preferred the instant appeal.

Learned counsel for the appellants has vehemently contended that there was no independent witness of the occurrence and the case was registered primarily on the depositions made by PW-2 Krishna Devi, complainant and Sat Narain-PW-5. He further contends that the complainant-party had a strong motive to involve the appellants in a false case as in the Panchayat election, Raj Singh, accused had won the election and the present complainant party had lost the elections. Still further, the defence had led ample evidence to show that Wazir Singh and Raj Singh were going to attend the Court on 07.04.2000, in Bahadurgarh in connection with the proceedings pending in a election petition and on the way, they were caused serious injuries with fire arms, pharsas, lathis etc. by the accused and they had suffered serious injuries in the said fight.

However, there is no explanation with regard to the injuries suffered by the

appellants. Still further, the depositions made by various prosecution witnesses were contradictory on material points and the evidence clearly suggested that the appellants had been falsely involved in the instant case.

The arguments raised by the learned counsel for the appellants have been vehemently opposed by learned State counsel, who contended that the statements of the injured witnesses have been duly corroborated by the medical evidence and the motive stood proved by leading cogent evidence. He prays that the impugned judgment may be upheld.

I have heard learned counsel for the parties and with their able assistance, I have gone through the trial Court record.

To prove the charge, the prosecution has examined seven witnesses in totality. Krishna Devi—complainant had been examined as PW-2, who narrated the entire sequence of events and the manner in which, she was caused injuries by the present appellants and their co-accused. Even though Sat Narain, PW-5 is related to her, but he is a natural witness and had duly supported the testimony of PW-2 Krishna Devi. Both of them have attributed specific roles to both the present appellants. Still further, the accused had the motive to cause injuries to the present complainant side as Raj Singh, co-accused had won the election of Panchayat and the election had been challenged by Sat Narain. Sat Narain/PW-5 had already availed his legal remedies by filing an election petition to challenge the election of Raj Singh, consequently, there was no motive on part of Sat Narain PW-5 to cause injuries. Raj Singh and his brother Wazir Singh, both accused were going to the Court and they saw Sat Narain seating in front of his house and as per the case of the prosecution, they had scuffled with him. Even the lady witnesses through

brick bat hitting them both. Consequently, both the appellants rushed to their home and brought pharsas, lathis etc. and caused injuries to the witnesses. Consequently, it is apparent that the version of the prosecution is probable and there was motive on the part of the appellants to commit the crime as well.

Even the learned trial Court has examined the roles of each accused in the concluding part of the judgment and rightly acquitted Raj Singh and Vijay, to whom injuries were attributed, however, the same were not supported by the medical evidence. On the other hand, the injuries attributed to both the appellants were duly supported by the medical evidence in the shape of the testimony of PW-1, Dr. N.K. Mundra, who had examined all the three injures and had duly exhibited the MLRs of the injured. Even, I find that the testimonies of PW-2, Krishna Devi, PW-5, Sat Narain and PW-1, Dr. N.K.Mundra inspire confidence and are liable to be believed by this Court.

In view of the observations made above, the impugned judgment and order dated 22.05.2004 passed by learned Additional District and Sessions Judge (Adhoc), Jhajjar are upheld and the appeal is, accordingly, dismissed.

Pending application, if any, is also disposed off, accordingly.

Case property, if any, be dealt with, and destroyed after the expiry of period of limitation. The trial court record be sent back.

18.11.2022
hemlata

(N.S.SHEKHAWAT)
JUDGE

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