

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-S-2374-SB-2006

Date of decision: 31.08.2022

Inderjit Singh

...Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr.Narinder Singh, Advocate, for the appellant.

Mr.J.P.Ratra, Sr.DAG, Punjab.

SANDEEP MOUDGIL, J

The present appeal has come up before this Court challenging the Judgment dated 31.10.2006 of the learned Sessions Judge, Mansa, acquitting the present appellant Inderjit of the charge framed against him under Section 307 IPC but holding him guilty of the charge framed against him under Section 324 IPC and sentencing him to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for four months vide order of sentence of the even date. Period of detention undergone by the appellant during investigation and trial of the case was ordered to be set off against the substantive sentence of imprisonment.

Briefly stated, the facts, which must necessarily be culled out before this court on which this Court will proceed to decide the present appeal as well as answer the questions of law and fact that arise, are as under:-

That on 04.10.2001, when Complainant Seeta Singh, paternal uncle of present appellant, along with his wife Laxmi Devi, was going to the

market for purchasing material for Bhog of path, being conducted at their house and, when they reached in front of the shop of Harnek Singh (father of the present appellant), at about 12:45 pm, the appellant-accused suddenly came out of the shop holding a "*chhurra*" in his right hand and inflicted injury on the right chest below the nipple to Seeta Singh, who had fallen on the ground. Laxmi Devi, his wife, raised the alarm and the accused inflicted 2/3 more blows with the weapon by which he (Seeta Singh) suffered 2/3 scratches on the right side. People gathered from the area and the accused fled away from there along with his weapon. Motive of the occurrence was suggested to be a dispute about partition of the family property. The appellant-accused had earlier remarked to teach a lesson to the injured. On this, injured/complainant Seeta Singh was taken to the shop of Dr. Ram Singh by the people, where after giving first aid, he was taken and admitted to General Hospital, Chandigarh. Injured/Complainant Seeta Singh had expressed fear that if the people around had not come, the accused would have inflicted more injuries on his person and would also kill him.

After completion of investigation, challan was presented and the copies of documents as required under Section 207 Cr.P.C were supplied to the accused; vide order dated 25.11.2002, the case was committed to the Court of Sessions by the trial Court.

After finding a prima facie case against the appellant-accused, charge under Section 307 IPC was framed against him, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution had examined PW1 Dr.S.S.Cheema, SMO, General Hospital, Sector 16, Chandigarh, PW2-HC Darshan Singh, PW3 Seeta Singh (injured/complainant), PW-4 Laxmi Devi

(eye witness and wife of complainant), PW5-ASI Rajender Singh, who was the Investigating Officer of the present case and report Ex.PW of Director, FSL, Punjab, Chandigarh was also tendered. PWs Gurjant Singh and Happy were given up as won over by the accused.

After completion of the formalities, ASI Rajinder Singh of Police Station Mansa, went to General Hospital, Sector 16, Chandigarh; on application Ex.PB, on 05.10.2001 at 11:30 am doctor made endorsement Ex.PB/1 and statement Ex.PJ of injured Seeta Singh was recorded; since copy of MLR was not handed over, DDR No. 21 dated 05.10.2001 (Copy Ex.PE) was recorded and on 13.10.2001 copy of the MLR was produced before the police by the son of the complainant and DDR No.19 dated 13.10.2001 was entered for registration of the case under Section 324 IPC and formal FIR Ex.PN was registered; doctor had given opinion on the MLR itself on 17.10.2001 about the nature of the injury to be grievous and caused by sharp edged weapon. Section 326 IPC was added by recording the DDR No.31 dated 17.10.2001 Ex.PG. Challan was presented but an objection was raised during checking of the challan and offence under Section 307 IPC was added vide DDR No.17 dated 08.11.2001, copy of which is Ex.PH. All these DDRs were proved during the examination of PW2-HC Darshan Singh and PW5- ASI Rajinder Singh, who was the Investigating Officer in the present case.

Statement of appellant-accused under Section 313 Cr.P.C was recorded, in which he had admitted that injured Seeta Singh is his paternal uncle but he denied all the other incriminating circumstances appearing in the prosecution evidence including the motive part. Regarding the medical evidence, there is specific contention that false injury report was prepared by

the doctor in connivance with the complainant party and that report is also ante dated. Infact the complainant wanted to grab more property than his share and in order to put pressure upon his father, who was claiming the equal share out of the joint property, a false case was registered in connivance with the police and the doctor so that his ailing father may bow before the pressure of Seeta Singh, who is a greedy person. The appellant-accused had also filed the civil suit against Seeta Singh and Dr.S.S.Cheema, who admitted the claim and paid him the full amount of damages.

In defence, appellant-accused had examined DW1 Constable Harbahadur Singh and DW2 Dr.Rameshwar Chander (Retired) Director Health Service and also tendered the record of the civil suit for damages.

After hearing learned counsel for the parties, since the charge under Section 307 IPC was not proved against the accused-appellant, the learned trial Court vide the impugned judgment dated 31.10.2006 acquitted him of the charge under Section 307 IPC but since ingredients of Section 324 IPC were proved beyond suspicion, therefore, held him guilty under Section 324 IPC and for the term as set out at the outset of this judgment.

Learned counsel for the appellant-accused has vehemently argued that the appellant and the injured-complainant are closely related to each other and due to a civil dispute pending between them and also in order to pressurise him, a false story of having been attacked has been made by the complainant.

Learned counsel for the appellant-accused has also argued that the injuries inflicted by the appellant-accused on the person of complainant are simple in nature and the injured was medico-legally examined at Civil Hospital, Mansa but was not referred to any other hospital for further

treatment. Complainant at his own came to General Hospital, Chandigarh and he manipulated the medical evidence to make the offence more grievous. It is further contended that finding the injuries to be simple, learned trial court had acquitted the appellant-accused of the charge framed against him under Section 307 IPC but held him guilty of the offence under Section 324 IPC and sentenced him thereunder.

Moreover, both the parties being closely related to each other, even after conviction, had compromised the matter. Offence under Section 324 IPC is compoundable with the permission of the Court even at the stage of appeal. Hence, prayer has been made that the impugned judgment be set aside and the appellant-accused may be acquitted of the charge framed against him.

On the other hand, learned State counsel has produced the custody certificate of the appellant-accused depicting therein that the applicant-appellant had undergone one month and twenty six days only, of actual undergone period including custody undergone as under trial. Learned State counsel has also admitted the parties to be close relative and compromising the matter.

I have given my thoughtful consideration to the arguments advanced by learned counsel for the parties and have also gone through the testimonies of the witnesses very carefully.

PW1-Dr.S.S.Cheema had medico legally examined the complainant on the fateful date and found the following injuries on his person:-

(i) incised wound .75 cm x .25 cm obliquely placed below the right nipple. Fresh bleeding was present and advised

x-ray chest P.A. View.

(ii) Linear abrasion 12 cm long over the anterior abdomen wall extending from right hypochondrium over the middle upto the umbilical region. Its lower end lying 2 cm lateral to the umbilicus. Oozing of blood was present.

(iii) Abrasion 5 cm long linear obliquely placed over the right hypochondrium region.”

PW1 had further stated that injury no.1 was simple however, it has been stated that the injury on the site concern was grievous and inflicted with sharp edged weapon. Injuries no.2 and 3 were simple in nature and probable duration was six hours. Further PW1 had deposed that injuries no.2 and 3 on the person of Seeta Singh could be caused with the edge of knife Ex.P-1. In Cross examination, PW1 deposed that the possibility that the injuries on the person of Complainant Seeta Singh could be self suffered or could be from a friendly hand cannot be ruled out. He further deposed that injury no.1 on the person of Seeta Singh was skin deep and did not penetrate more than the skin. Further he deposed that it is quite possible that if the knife Ex.P1 is inflicted with force it will penetrate deeper into the body. Possibility of injury no.2 being due to rubbing the stone or some other object is also there. He further deposed that after seeing the X-ray, no fracture was found on the body of Injured/Complainant Seeta Singh. PW1 Dr.S.S.Cheema, in his cross examination, has also admitted that appellant-accused had filed a civil suit for damages against him, other State agencies and Complainant Seeta Singh.

PW3 Seeta Singh (injured/complainant) in his examination in chief reiterated the story of injuries being inflicted to him by appellant-accused and on his saying to doctor that he is sinking, he was brought to

Chandigarh. In cross examination, PW3 had deposed that he did not see the knife (*Chhurra*) but the injuries with *Chhurra* were given to him, therefore, he could not tell the size and width of the *Chhurra*.

After going through the aforesaid testimonies of the prosecution witnesses, this Court is of the considered view that the case is based on the medico-legal evidence and PW1 in his statement has deposed to the effect that injuries inflicted were simple in nature and as per x-ray report, no fracture was found on the body of complainant. Parties being closely related to each other, even after conviction, can compromise the matter with the permission of the court even at the stage of appeal. Moreover, there is delay of one day in lodging the FIR, which remains unexplained. The incident is of 04.10.2001, whereas the statement of Complainant/Seeta Singh was recorded on 05.10.2001, on which, the FIR was registered in the present case. Further, the incident had taken place at Mansa and the injured after taking first aid, on his making complaint of sinking his heart, was taken to General Hospital, Chandigarh but no DDR at Chandigarh was lodged. Doctors at Mansa had not referred the complainant to Chandigarh so Mansa Police was also not informed by them. Therefore, no DDR was lodged at Chandigarh regarding suffering of injuries and admission of complainant in General Hospital, Chandigarh. Besides, the appellant-accused has undergone only one month and twenty six days but keeping in view the totality of circumstances especially the testimony of PW1, who has specifically deposed about the injuries being simple and no fracture found on the body of the complainant/injured, the appeal is allowed. The impugned judgment and order of sentence dated 31.10.2006 holding the appellant-accused guilty of offence punishable under Section 324 IPC and sentencing him thereunder,

passed by learned Sessions Judge, Mansa is set aside and the appellant/accused is acquitted of the charge framed against him.

(SANDEEP MOUDGIL)
JUDGE

31.08.2022
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Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No