

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

CRA-S-2273-SB-2011 (O&M)

Date of decision: 14.11.2022

Chhote Lal

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Dhirinder Chopra, Advocate
for the appellant/complainant.

Mr. Deepak Kumar Grewal, DAG, Haryana.

None for respondent Nos. 2 to 4/accused.

ARVIND SINGH SANGWAN, J. (Oral)

Challenge laid in this appeal is to the judgment dated 20.07.2011, passed by the lower appellate Court, vide which the appeal filed by the respondents/accused against the judgment of conviction dated 28.02.2011 and order of sentence of the even date, passed by the trial Court convicting them under Sections 323, 325, 452, 34 of the IPC and directing them to undergo simple imprisonment for a period of one year and to pay a total fine of Rs. 2500/-, was disposed of upholding the judgment of conviction, however, the order of sentence was modified and the respondents/accused were ordered to be released on probation, on furnishing probation bonds in the sum of Rs. 50,000/- each with one surety.

Brief facts of the case are that on 10.01.2005, appellant Chhote Lal recorded his statement with the police that he is running a small shop in the village and one Babu Lal was employed as a driver on the vehicle. On

09.01.2005, he had exchange of some hot words with one Ravinder and in that regard, a Panchayat was convened in the morning of 10.01.2005. Later on, when the appellant/complainant was present with Pawan Kumar at home, respondents/accused Rattan Lal, Manish and Ravi Dutt came there with sticks and axe etc. and gave injuries to complainant, who was later on rescued by his brothers Ramotar and Chiranji Lal. On the basis of the statement of the complainant, FIR No. 9 dated 10.02.2005, under Sections 323, 325, 34 of the IPC was registered and on completion of investigation, the *Challan* was presented.

The prosecution in its evidence produced Dr. Surender Yadav s PW-1, ASI Nand Lal as PW-2, Pawan Kumar as PW-3, Ramotar as PW-4, SI Ram Sarup as PW-5, Chiranji Lal as PW-6, Dr. Narveer as PW-7 and complainant Chhote Lal himself appeared as PW-8 and thereafter, the evidence of the prosecution was closed.

Thereafter, the statement of the respondents/accused was recorded under Section 313 Cr.P.C., wherein the accused pleaded their innocence and false implication. In defence, Dr. R. N. Dhanwal was examined as DW-1 and thereafter, the defence evidence was closed.

The trial Court, vide its judgment of conviction dated 28.02.2011, held that the prosecution is able to prove the guild of accused as it has come in the medical as well as ocular evidence that complainant Chhote Lal has suffered lacerated wound on the left side of frontal bone as well as had a complaint of chest pain, whereas Pawan Kumar suffered lacerated wound on the occipital region. Accordingly, the trial Court convicted and sentence the respondents/accused as noticed above.

Aggrieved against the judgment passed by the trial Court, the

respondents/accused preferred an appeal before the lower appellate Court, which was disposed of upholding the judgment of conviction and modifying the order of sentence to the extent that it was reduced to probation of one year as noticed above.

Learned counsel for the appellant/complainant has argued that it is a case, where from the medical evidence as well as from the statements of injured witnesses/eye-witnesses, it is proved that respondents/accused were the aggressor and came to the house of the appellant/complainant and caused injuries with the sharp edged weapons, therefore, the lower appellate Court has wrongly granted them the concession of probation by modifying the sentence awarded by the trial Court.

In reply, learned State counsel has submitted that the FIR in question pertains to the year 2005 and none of the accused has any history of involvement in any other case, therefore, the lower appellate Court has rightly granted the concession of probation on furnishing probation bond to the tune of Rs. 50,000/- each.

On a Court query, learned State counsel has submitted that from the date of passing of impugned judgment by the lower appellate Court, there is no complaint that the respondents/accused have ever misused the concession of probation in any manner or have extended any threat to the appellant/complainant or any other witness.

After hearing learned counsel for the parties and considering the fact that though both the Courts below have recorded a finding that the prosecution has been able to prove the guilt of the accused, however, in view of the fact that offence pertains to the year 2005 and in 2011, the lower appellate Court has released the respondents/accused on probation of one

year on furnishing probation bond to the tune of Rs. 50,000/- each and there is no complaint either from the side of appellant/complainant or any other person in the village that the respondents/accused have misused the concession of probation in any manner at a subsequent stage or they have extended any threat to the appellant/complainant or any witness and also in view of the fact that a substantive period has lapsed and the respondents/accused have shown improvement in their character, I find no ground to interfere with impugned judgment passed by the lower appellate Court.

Accordingly, the present appeal is dismissed.

14.11.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No