

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. **CRA-S-1200-SB-2006**
Date of Decision :07.06.2023

Sukhdev ...Appellant

Vs.

State of Haryana ...Respondent

2. **CRA-S-1313-SB-2006 (O&M)**

Sanwal and another ...Appellants

Vs.

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present:- Mr. Sudhir Sharma, Advocate
for the appellant in CRA-S-1200-SB of 2006.

Mr. Keshav Pratap Singh, Advocate
for the appellant in CRA S-1313-SB-2006.

Mr. Rajinder Kumar, DAG, Haryana.

N.S.SHEKHAWAT, J

1. This judgment shall dispose of above mentioned two appeals, as the same arise out of a common impugned judgment of conviction dated 10.06.2006 and order of sentence dated 13.06.2006, passed by the learned Additional Sessions Judge, Faridabad, whereby, the appellants, namely, Sukhdev, Sanwal and Zile had been convicted under Section 148 IPC and Sections 323, 325 and 506 IPC read with Section 149 IPC and were sentenced to undergo rigorous imprisonment for a period of one year and also to pay a fine of

Rs.1000/- each alongwith a default stipulation. The appellants/accused were further sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs. 500/- each for the commission of offence punishable under Section 323 read with Section 149 of IPC; to undergo rigorous imprisonment for four years and to pay a fine of Rs. 4000/- each for the commission of offence punishable under Section 325 read with Section 149 of IPC; to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs. 3000/- each for the commission of offence punishable under Section 506 read with Section 149 of the IPC alongwith default stipulations.

2. As per the case of the prosecution, on 30.08.1999 at about 3.30 p.m., Narbir Singh, Advocate, complainant was going towards his house from the District Court Palwal. When he covered some distance, Rati Ram son of Sanwal, accused, having a country made pistol; Sanwal son of Jeeta, accused having a lathi, Zile son of Kamal, accused and Birju son of Bishamber both accused residents of village Deeghot having iron rods came from behind. Rati Ram fired from his pistol stating that they would teach him a lesson for interfering in their litigation. However, the complainant escaped unhurt from the fire shot. After that, Sanwal gave a blow with lathi on the back bone of the complainant and after suffering the same, the complainant fell on the ground. After that, Birju and Zile Singh, both the accused gave blows with lathies on his hands. Rati Ram snatched

rod from Zile Singh and inflicted injuries on his left hand and right ear. The complainant raised the noise to save him and on this Jai Singh son of Yad Ram, Bijender son of Ram Ji Lal, residents of Deeghot and Desh Raj son of Lakhi Ram, resident of Phulwari came there. The accused fled from the spot with their respective weapons. However, while leaving, they threatened that they would eliminate the complainant in future on getting a chance. The complainant was shifted to General Hospital Palwal in seriously injured condition, and a medical rukka was sent to the police station. On receiving the rukka, ASI Radhey Shyam reached in the hospital, but found the injured unfit for statement and on the next day, he recorded the statement of Narbir Singh, injured. After the completion of the necessary investigation, the challan was presented against the appellants under Sections 324, 325, 307, 506 read with 149 IPC, to which, the appellants pleaded innocence and claimed trial.

3. In order to prove the case of the prosecution, nine witnesses were examined. The prosecution examined PW1 Narbir Singh, complainant, who supported the case of the prosecution as mentioned in the FIR. He also stated that Sukhdev was also with the accused and his name was not previously known to him. He was also holding a lathi and had given lathi blows on both his arms, alongwith other accused. The prosecution examined PW2 Jal Singh, eye witness, who assigned, specific roles to all the present three appellants and deposed on similar lines. The prosecution further

examined PW3 Dr. S.L. Mehra, Medical Superintendent, ESI Hospital, Sector-8, Faridabad. He stated that on 30.08.1999, he radiologically examined Narbir Singh and as per the X ray examination, the injured had suffered fracture right and left ulna and exhibited X ray report as Ex.PB. The prosecution further examined PW4 Dr. B.L. Chimpa, Medical Officer, P.H.C. Alawalpur, who had conducted the examination of Narbir Singh, injured and found the following injuries:-

- 1. Lacerated wound 1 x ¼ cm skin deep. Fresh bleeding was present over right temporal region.*
- 2. Contusion 8 x 8 cms red in colour. Tenderness was present over posterior side of right fore-arm.*
- 3. Contusion 7 x 7 cms size red in colour. Tenderness was present over posterior side of left forearm.*
- 4. Contusion 8 x 3 cms size red in colour. Tenderness was present over lateral side of left thigh in its lower third.*
- 5. Contusion 7 x 2 cms size red in colour. Tenderness was present over lateral aspect of the left knee.*
- 6. Contusion 7 x 2 cms size red in colour. Tenderness was present over anterior side of right knee.*
- 7. Contusion, red in colour. Tenderness was present over lateral aspect of right leg, in its upper third.*
- 8. Abrasion 2 x 1 cm oozing of blood was present over anterior side of left leg in its middle third.*

9. Contusion 4 x 4 cm. red in colour. Tenderness was present, over thoracolumbar region in mid line.

10. Abrasion 2 x 1/4 cm, red in colour over anterior side of left fore-arm.

Injuries nos. 1, 8 and 10 were simple in nature and remaining injuries were kept under observations and result of X-ray examination. All the injuries were caused by blunt weapon and the probable duration for injuries Nos. 1 and 8 within six hours and in respect of rest of injuries, the probable duration of suffering the same was within 24 hours and correct carbon copy of the medico legal report was Ex.PC and the rukka Ex.PC/1 was sent to the police. The prosecution further examined Inspector Raghbir Singh, Inspector Vigilance, Faridabad as PW5, who prepared the report under Section 173 Cr.P.C. Ram Phool ASI was examined as PW6, who stated that he was posted as ASI in Police Station City Palwal. A writing Ex.PA was received from ASI Radhey Shyam in the police station and on its basis, he recorded FIR Ex.PA/1 and made endorsement Ex.PA/2. ASI Radhey Shyam appeared as PW7 in the present case, who had conducted the investigation in the present case. He had recorded the initial statement of the injured Ex.PA. He also interrogated the accused Sukhdev and Sanwal and each one of them produced one lathi each, in pursuance of their disclosure statements. He had also conducted spot inspection. The prosecution further examined PW8 HC Ram Singh who stated that accused Sukhdev and Sanwal both

got recovered one *lathi* each. PW9 SI Ravi Dutt had arrested Zile Singh accused in the present case.

4. After the closure of the prosecution evidence, the statements of the accused were recorded under Section 313 Cr.P.C. and all of them pleaded false implication in the present case. No defence evidence was led by the accused.

5. I have heard learned counsel for the parties and perused the trial Court record with their able assistance.

6. Learned counsel for the appellants vehemently argued that they had been falsely implicated by the present complainant by assigning them false roles. Further, there was delay of one day in lodging the FIR and the whole prosecution is afterthought and manipulated. Even, the prosecution could not offer any plausible explanation for the delay in registration of the FIR and the delay was utilized by the complainant in coining a false version against the present appellants. Apart from that, there were contradictions and discrepancies in the statements of various witnesses and the prosecution witnesses were liable to be disbelieved by this Court. Still further, learned counsel further submitted that Sukhdev was not present at the spot and was falsely involved in the present case. The submissions made by the learned counsel for the appellants have been vehemently opposed by the learned State counsel and contended that the complainant Narbir was caused serious injuries and the first priority of his family was to provide best possible

treatment. Consequently, the delay of one day in registration of the FIR was not at all fatal. Apart from that, PW1 Narbir Singh and PW2 Jal Singh have assigned specific roles to all the three appellants and have been rightly convicted by the learned trial Court.

7. This Court is of the considered opinion that the submissions made by the learned State counsel carry weight and are liable to be accepted. PW1 Narbir Singh, Advocate, was caused serious injuries by the assailants and was immediately shifted to the hospital. When the injured was in the hospital, the first priority of the family member was to provide him the best possible treatment and to save his life. Thus, the learned State counsel has rightly submitted that the delay of one day in registration of the FIR would not be fatal, more so, when this Court has found the evidence of PW1 Narbir Singh and PW2 Jal Singh creditworthy.

8. After taking into consideration the rival submissions made by the learned counsel for the parties, this Court is of the considered opinion that the case of the prosecution was narrated by PW1 Narbir Singh, while appearing as a prosecution witness. He had specifically assigned roles to all the present three appellants, who had caused injuries to him indiscriminately. When several accused caused injuries with their respective weapons to the only one injured, it is not expected that the said witness will give picturesque account of each injury caused by every accused. In the present case, it is evident from the testimony of PW1 Narbir Singh that he was caught

by the appellants, while he was returning home from District Court, Palwal and was beaten up in the most unhuman and brutal manner. Even, the injuries were caused to him with *lathi* on almost all over his body. The statement of PW1 Narbir Singh has been duly corroborated by PW2 Jal Singh, eye witness and assigned specific roles to all the three appellants. In the present case, I have perused the testimonies of PW1 Narbir Singh and PW2 Jal Singh and both the accused have withstood the test of cross-examination.

9. Apart from the above said two depositions, their statements have been duly corroborated by the testimonies of Dr. B.L. Chhimpa, who had exhibited MLR of the injured as Ex.PC and he had sent rukka Ex.PC/1 to the police station. Even, from a perusal of the MLR, it is evident that there is not much variations between ocular and medical account and the medical evidence is also liable to be believed by this Court. Apart from that the prosecution also examined PW7 Radhey Shyam SI, in whose presence, Sanwal and Sukhdev have suffered disclosure statements and got recovered one *lathi* each in pursuance of their disclosure statements. Even his statement was duly corroborated by PW8 HC Ram Singh. Thus, the weapons of offence were also recovered from the present appellants and the testimonies of the prosecution witnesses were correctly relied upon by the learned trial Court.

10. Even otherwise, this Court has carefully perused the findings recorded by the learned trial Court. The learned trial Court

has recorded detailed findings with regard to the minor contradictions, inconsistencies and improvements in the statements of various prosecution witnesses. Still further, the learned trial Court rightly held that all the appellants/accused had participated in the occurrence, who were armed with weapons of offence and had participated in the occurrence. In fact, all of them alongwith co-accused had formed unlawful assembly with common object of causing grievous and simple injuries with rods and iron rods to Narbir Singh PW1. Thus, the offence under Sections 325, 323, 148 read with Section 149 IPC stood proved against them.

11. In view of the above, it is held that there is no material illegality and perversity in the impugned judgment of conviction dated 10.06.2006 passed by the learned Additional Sessions Judge, Faridabad and the appeals fail and are accordingly dismissed.

12. All pending applications, if any, are disposed off, accordingly.

13. The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

14. Records of the Court below be sent back.

07.06.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No