

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

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CRA S-569-SB of 2018 (O&M)
Date of Decision: 11.10.2023

Harvinder Singh and others ...Appellants
Versus
State of Punjab ... Respondent

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

Present : Mr. G.S. Goraya, Advocate
for the appellants.

Mr. Mohit Chaudhary, AAG, Punjab.

Mr. G.B.S. Gill, Advocate, for the complainant.

N.S.SHEKHAWAT, J. (Oral)

1. The present appeal has been preferred against the judgment of conviction dated 25.01.2018 and order of sentence dated 30.01.2018 passed by the Court of Additional Sessions Judge, Sangrur, whereby, the appellant Harvinder Singh @ Rimpi was convicted under Sections 307 and 325/34 IPC and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 20,000/- under Section 307 IPC and two years and to pay a fine of Rs. 2500/- under Section 325/34 IPC alongwith default stipulations. Appellant Karamjit Singh @ Kaimi was convicted under Sections 325 and 307/34 IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.5,000/- under Section 325 IPC and five years and to pay a fine of

Rs. 10,000/- under Section 307/34 IPC alongwith default stipulations. Appellant Arshdeep Singh @ Arsh was convicted under Sections 325 and 307/34 IPC and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.10,000/- under Section 307/34 IPC and two years and to pay a fine of Rs. 5000/- under Section 325 IPC alongwith default stipulations.

2. At the very outset, learned counsel appearing on behalf of the appellants submits that the appellants did not wish to challenge the judgment of conviction passed by the lower Court, however, a lenient view may be taken while awarding sentence to the present appellants.

3. Even though, learned counsel does not challenge the conviction of the appellants, still, this Court has examined the merits of the case in the light of the evidence led by the parties.

4. As per the case of the prosecution, on 17.09.2015, one rukka was received from Civil Hospital Sangrur with regard to the admission of Gurpreet Singh, who had suffered injuries in a fight. ASI Malkiat Singh alongwith other police officials reached Civil Hospital Sangrur and sought the opinion regarding the fitness of Gurpreet Singh injured, but the doctor informed that the injured had been referred to Rajindra Hospital, Patiala. The police went to Rajindra Hospital, Patiala, but the doctor declared the injured unfit to make statement. On 19.09.2015, MHC Gurmail Singh intimated that

Gurpreet Singh injured was under treatment at PGI, Chandigarh and ASI Malkiat Singh alongwith other police officials reached PGI and sought the opinion of the doctor regarding the fitness of Gurpreet Singh. The doctor declared the injured to be fit to make a statement and his statement was recorded by ASI Malkiat Singh. The complainant stated that he was a resident of Kishanpura Basti, Sangrur and was student of B.A. Part I. On 16.09.2015, he alongwith his brother Amandeep Singh was coming back to their house from the Gurudawara on their motorcycle bearing registration No. PB-19-H-5754. His friend Kamaldeep Sharma @ Shandy met them and they stopped him and started talking with him. At about 08.00 p.m., Harwinder Singh @ Rimpi @ Tat armed with a Kirpan, Kammy armed with an iron rod and three unknown persons alighted from a gypsy of black colour and came towards them after raising their arms in the air. Harwinder Singh @ Rimpi and his companions exhorted that Gurpreet Singh should not be spared. Harwinder Singh @ Rimpi gave a blow with a Kirpan towards his head with an intention to kill him, which hit him on his upper side of forehead. He tried to run away but Harwinder Singh gave another blow of kirpan which hit on the back side of his head and he fell down on the earth. While he was lying on the ground, Kammy and Makhan Singh gave iron rod blow on his right leg and unknown persons had also caused injuries with Kirpan on his right leg. Arshdeep tried to gave an injury with iron rod

on his head and he raised his arm in his defence and the said blow hit on his right arm. Arshdeep gave another blow, which hit on his stomach. Harwinder Singh @ Rimpi @ Tat gave kirpan blow towards his neck and he raised his left arm in his defence, which hit him on his left elbow. He became unconscious and they gave more blows to him on his left leg, chest and right hand. His brother Amandeep Singh and Kamaldeep Sharma had witnessed the occurrence.

5. After completion of the investigation, a final report under Section 173 Cr.P.C. was presented against the appellants for the offences punishable under Sections 307, 323, 325, 326 and 34 IPC.

6. Finally, the charge was framed against the appellants under Sections 325, 326, 307 and 34 IPC, to which, the appellants pleaded not guilty and claimed trial.

7. In order to prove the charge against the appellants, the prosecution examined PW1 Gurpreet Singh @ Kobra, PW2 HC Jagroop Singh, PW3 Dr. Karamdeep Singh Kaha, Sr. Resident Department of Orthopedics at Government Medical College, Patiala, PW4 Amandeep Singh, PW5 HC Sukhraj Singh, PW6 ASIK Gurmail Singh, PW7 ASI Malkiat Singh, PW8 Dr. Jashanpreet Singh, Jr. Resident, Department of Orthopedics, Rajindra Hospital, Patiala, PW9 Dr. Jasbir Singh Jr. Resident Radiologist Department RH Patiala, PW10 Dr. Sourav Aggarwal Sr. Resident Orthopedic

Department PGI Chandigarh and PW11 Dr. Ranjni Sr. Resident,
Department of Radiologonis, PGI, Chandigarh.

8. After closure of the prosecution evidence, the statements of the accused were recorded under Section 313 Cr.P.C. and they pleaded their false implication. They stated that they had not committed the offence and had been falsely involved in the present case.

9. In defence, the appellants examined SI Jatinder Pal Singh as DW1, Sushil Kumar as DW2, Rama Kant Sharma as DW3, Jagjit Singh as DW4, Harjinder Singh as DW5, Harpal Singh as DW6, Gagandeep Singh DSP Balachor, Nawan Shehar as DW7 and Gurpreet Singh PPS SP Intelligence as DW8. After this appellant Arshdeep Singh closed his defence evidence after tendering copy of FIR no 194 dated 15.06.2014 PS City Sangrur as EX. D4 and appellants Harwinder Singh and Karamjit Singh have also closed their defence evidence after tendering copy of FIR 121 dated 12.05.2015 Police Station City Sangrur as Ex. Dx/1 and copy of FIR 24 dated 05.02.2009 PS Sangrur as Ex. DX/2.

10. In the present case, Gurpreet Singh @ Kobra, injured/complainant was examined as PW1 and he had supported the case of the prosecution. While appearing as a prosecution witness, he had testified about the role of each individual accused and also supported the averments made by him in the FIR. The prosecution

examined PW4 Amandeep Singh who corroborated the version of the complainant. In fact, Amandeep Singh was also present at the spot and had identified the accused. He had also stated the facts with regard to the injuries caused by each of the appellants. The prosecution had further examined PW3 Dr. Karamdeep Singh, who proved computerized copy of MLR of Gurpreet Singh Ex. PB, pictorial diagram Ex. PC, photo copy of handwritten MLR Ex. PB/1, photo copy of pictorial diagram Ex. PC/1, medical ruqa Ex. PD, declaration of injury Ex. PE, report of board of doctors for declaring nature of injury Ex. PE which bears his signatures BHT of injured Gurpreet Singh Ex. PF. He testified that patient Gurpreet Singh was admitted on 16.09.2015 at Civil Hospital, Sangrur and referred to Rajindra Hospital, Patiala on 17.09.2015. The prosecution examined PW7 ASI Malkiat Singh, who had initially conducted the investigation in the present case. He stated that on 17.09.2015 he was posted as ASI at PS city Sangrur on that day he along with C Sukhraj Singh, HC Bhola singh and PHG Nazar Singh reached Civil Hospital Sangrur as he received medical rukka of Gurpreet Singh son of Avtar Singh. He moved application Ex. PW7/A regarding the fitness of Gurpreet Singh where doctor told that patient was referred to Rajindera Hospital Patiala vide endorsement Ex. PW7/B. On which he along with other police officials reached Rajindera Hospital Patiala and moved an application Ex. PW7/C for the fitness of injured

Gurpreet Singh where doctor declared him unfit to make the statement vide endorsement Ex. PW7/D. On 19.09.2015, he along with HC Sukhraj singh, C Ginder Singh and PHG Abdul Sattar reached PGI Hospital where he moved application Ex. PW7/E for taking the statement of injured Gurpreet Singh whereby the doctor declared him fit to make the statement vide endorsement Ex, PW7/F. He got recorded the statement of complainant Gurpreet Singh @ Cobra and read over to him on which he put his thumb impression and his brother Amandeep Singh signed under the statement in English. He sent rukka through C Ginder Singh on the basis of which present FIR Ex.PW7/G was registered by ASI Satnam Singh whose signatures he identified being his colleague. Police proceeding is Ex. PW7/H. He along with other police officials and Amandeep Singh went to the place of occurrence and where he prepared the site plan Ex. PW7/J at the instance of Amandeep Singh. Statements of witnesses were recorded by him. On 29.09.2015 Harwinder Singh @ Rimpi and Charajeet Singh @ Lucky were arrested vide their arrest cum intimation memo Ex PW 5/A and Ex. PW 5/B on production warrants after seeking permission from the Court. He prepared their personal search memo Ex PWS/C and Ex. PW5/D. Memos were witnessed by HC Sukhraj Singh and signed by the accused. During interrogation accused Harwinder Singh got recorded his disclosure statement Ex. PW 5/E under Section 27 evidence Act and got

recovered one iron pipe as per his disclosure statement which was taken into police possession vide Memo Ex PW5/F. He prepared site plan of place of recovery Ex.PW7/K. Statement of witnesses were recorded by him. On 19.12.2015, he went to CH Sangrur and he moved an application Ex.PW7/L before MO, CH Sangrur regarding the nature of injury on the person of injured Gurpreet Singh, upon which doctor declared the injury No. 4 was declared as grievous in nature. Injuries number 08 to 12 were declared as grievous in nature. Offence under Sections 325 and 326 IPC were added. After completion of investigation, challan of accused Harwinder Singh prepared and presented by SI SHO Jatinder Singh. On 28.01.2016, he went to CH Sangrur, and moved application Ex. PW7/M regarding the nature of injuries on the person of Gurpreet Singh upon which injuries No. 1 to 3 declared as simple in nature and injury No. 4 declared as grievous in nature, injuries No. 5 to 7 simple in nature, injuries No. 8 to 12 grievous in nature, injuries No. 13 & 14 simple in nature, injury No. 15 grievous in nature and injury No. 16 simple in nature. On 23.02.2016, accused Arshdeep Singh @ Arsh produced before him by Bhupinder Singh Joshi and accused were arrested vide arrest cum intimation memo Ex. PW7/N and personal search memo Ex. PW7/P also prepared by him. Memos were witnessed by HC Kamaljit Singh and HC Chamkaur Singh and also signed by accused. Iron rod taken into possession vide recovery memo Ex. PW7/Q. Motor-cycle bearing

No. PW-13-AP- 6804, was taken into possession vide memo PW7/R. Memos were witnessed by HC Kamaljit and HC Chamkaur Singh and PW Bhupinder Singh. He deposited the case property with MHC Jagroop Singh. Statements of witnesses were recorded by him. On 08.03.2016, he along with HC Sukhraj Singh and C Sember Dass was party to the investigation of the present case where Vinod Kumar MC produced accused Karamjit Singh @ Kammi son of Gurdial Dass resident of Mangwal along with motorcycle bearing No. PB-13AB 4757 make Splendor and one iron rod before him and accused was arrested vide memo EX PW 5/G and personal search was conducted by him vide memo EX PW5/H and iron rod was taken into police possession vide momo Ex PW5/J and motor cycle was taken into police possession vide momo EX PW5/K. Memos were witnessed by HC Sukhraj Singh, C Sember Dass and PW Vinod Kumar, MC. Statements of witnesses were recorded by him.

11. The prosecution further examined PW8 Dr. Jashanpreet Singh, who had referred the injured to PGI Chandigarh. PW9 Dr. Jasbir Singh had conducted the ultra sound of patient Gurpreet Singh and proved his report Ex.PW9/A. PW10 Dr. Sourav Aggarwal proved summary of Gurpreet Singh as Ex.PW10/A. The prosecution further examined PW11 Dr. Ranjni, who stated that on 23.01.2016 she was posted as Junior Resident in PGI Chandigarh. X-rays of Gurpreet Singh were conducted by Trauma Centre, Radioldiognis Department

PGI. The X-rays films came before her for reporting and after going through the X-ray films she proved it as Ex.PW11/A to Ex.PW11/D. She also proved the report which bearing her signature as Ex.PW11/A.

12. I have gone through the judgment passed by the Court below as well as the evidence led by both the sides. In the present case, the complainant had appeared as PW1, who led direct evidence to prove the involvement of the accused in the present case. Not only that, he proved the strong motive, due to which, the appellants had caused injuries to him. Apart from that, his testimony was duly supported by the statement of PW4 Amandeep Singh. Even though, Amandeep Singh was related to PW1 Gurpreet Singh @ Kobra, but his testimony cannot be discarded only on the ground of his relationship with the injured. Still further, the injuries on the person of Gurpreet Singh had been duly proved on record by PW8 Dr. Jashanpreet Singh, who had initially attended the injured. The testimony of PW8 Dr. Jashanpreet Singh had been duly substantiated by statement of PW9 Dr. Jasbir Singh, PW10 Dr. Sourav Aggarwal and PW11 Dr. Ranjni. Even, I have carefully gone through the judgment passed by the Court below and find no material irregularity, illegality or perversity in the impugned judgment. Consequently, the impugned judgment of conviction is ordered to be upheld.

13. During the course of arguments, learned counsel appearing on behalf of the appellants as well as learned counsel appearing on behalf of the complainant/injured submit that the parties in the present case have entered into a compromise vide compromise (Annexure A-1). Still further, the parties were residents of the same city and with the intervention of the respectables/friends, both the parties had decided to live peacefully and had amicably settled all the disputes. Learned counsel for the parties submit that the parties were of young age and keeping in view the future of the parties, the compromise was written between the parties, without any pressure, coercion or misrepresentation. Apart from that, it is apparent from the record that the appellants are facing prosecution for the last about 08 years.

14. During the course of hearing, learned State counsel has placed on record the custody certificates of all the appellants. The appellant No. 1 has undergone 03 years, 06 months and 13 days; appellant No. 2 has undergone 03 years, 07 months and 25 days (including remissions), whereas, the appellant No. 3 has undergone 03 years and 28 days of sentence out of total sentence of 05 years. Thus, keeping in view the aforesaid facts and circumstances, the sentences imposed on the appellants are ordered to be reduced to the period already undergone by them.

15. With the above modifications, the appeal is partly allowed and the impugned judgment of conviction is upheld, whereas the order of sentence is modified to the extent that the sentences imposed on the present appellants are reduced to the period already undergone by them.

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

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

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

11.10.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

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