

CRA-S-4102-SB-2017 (O&M)

-1-

(231) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-4102-SB-2017 (O&M)
Date of Decision: 02.05.2023

SHIV KUMAR & OTHERS

... Petitioners

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Mohit Sadana, Advocate
for the petitioner.

Ms. Ramta K Chaudhary, DAG, Punjab.

JASJIT SINGH BEDI, J.

The present appeal has been preferred against the judgment of conviction and order of sentence dated 26.09.2017 passed by the Additional Sessions Judge-I, Sangrur whereby the appellants have been convicted under Sections 323, 341 and 506 of the IPC and have been sentenced to undergo rigorous imprisonment for 01 year and to pay a fine of Rs.2,500/-, in default of payment of fine, to undergo rigorous imprisonment for 01 month.

2. The brief facts of the case are that on 14.02.2016, ASI Mehar Singh, who was posted at Police Station, Sangrur, received intimation Ex.PK from Civil Hospital, Sangrur, regarding the admission of injured Amanpreet Singh son of Surjit Singh, resident of House No.129, Ward No.14, Khalifa Street, in the Emergency Ward of Civil Hospital, Sangrur. On reaching the Hospital, Amanpreet Singh got his statement Ex.PJ recorded by submitting

CRA-S-4102-SB-2017 (O&M)

-2-

that he was a student of LL.B. 3rd year course and on 13.02.2016, he was going on a motorcycle bearing registration No. PB-13V-0989 make Pulsar from his house to Gurdwara Sahib Jyoti Sarup in order to bring the milk from the shop situated opposite to said Gurudwara Sahib. On reaching near the Universal Book Depot ahead to the shop of Chunni Lal, three persons on a black coloured motorcycle make Platina bearing registration No.PB-13X-5546 came from the backside. It was at about 6.15 p.m. and all these three persons on the said motorcycle started abusing him (complainant Amanpreet Singh). One of those assailants was known to him and his name was Lucky son of Ramesh Kumar @ Bintu, resident of Ambedkar Nagar, Sangrur. Lucky gave a fist blow on his chest and also snatched his gold chain worn around the neck. One of the other assailants gave him a fist blow on his face resulting in the falling of his spectacles and the third accomplice also gave him beatings. On raising an alarm, which led to the gathering of the people from nearby, the accused sped away from the spot on their motorcycle, who extended threats while leaving the spot. He (complainant) telephonically informed his father about the incident who got him admitted at the Civil Hospital, Sangrur, where he was medically examined. He (complainant), thereafter on 14.02.2016 accompanied the police party to the place of occurrence, where on his demarcation, the police prepared the rough site plan and his supplementary statement was also recorded. Thereafter, the FIR in this case was registered by Inspector Jatinder Pal Singh. The copy of the FIR is Ex.PJ/2. Site plan Ex.PL was prepared. The medical record pertaining to injured Amanpreet Singh was also obtained by the Investigating Officer.

3. On 18.02.2016, ASI Mehar Singh along with HC Sukhraj Singh were present at the Police Station, when one Mahavir Singh son of Sunder Ram, resident of Dr. Ambedkar Nagar, Sangrur along with Shiv Kumar @ Lucky, Sandeep Kumar Sahota and Kaku arrived at the Police Station, Sangrur. All those three persons were arrested by the Investigating Officer and personal search memos Ex.PC to Ex.PE, respectively, of the accused were also prepared. Shiv Kumar accused produced motorcycle bearing registration No. PB-13X-5546 along with a photocopy of its RC, which was taken into possession vide memo Ex.PF. Statements of the witnesses under Section 161 Cr.P.C. were recorded. On the completion of the investigation, a challan against the three accused was presented in the Court for the offences under Sections 323/506/34 IPC.

4. On presentation of the challan and appearance of the accused in the Court of the Ilaqa Magistrate, copies of documents were supplied to them free of cost as required U/s 207 Cr.P.C.

5. Thereafter, the accused were declared proclaimed offender as per order dated 04.10.2016 passed by the Court of Chief Judicial Magistrate, Sangrur. Subsequently, accused Shiv Kumar surrendered in the Court on 10.10.2016 and was taken into custody. On moving of an application by the prosecution, the offence under Sections 379-B/201 IPC were enhanced by the Court of Chief Judicial Magistrate, Sangrur. Thereafter, the case was committed to the Court of Sessions by the Court of Chief Judicial Magistrate, Sangrur, vide order dated 19.12.2016. The presence of the remaining two accused namely Sandeep Kumar and Kaku were also procured through

issuance of production warrants,as they were confined in jail in some other case.

6. Thereafter, the final report was scrutinized and it was found that a *prima facie* case for the offences under Sections 379-B, 323, 341,506, 34 of Indian Penal Code was made out against the accused and they were charged accordingly. The accused pleaded not guilty and claimed trial.

7. In order to prove the charges against the accused, the prosecution examined PW1 Raman Kumar, Record Clerk, Civil Hospital, Sangrur, PW2 HC Sukhraj Singh, PW3 Amanpreet Singh, PW4 ASI Mehar Singh, PW5 Surjit Singh, PW6 Dr. Baljit Singh, Medical Officer, Civil Hospital, Sangrur, PW7 Manoj Kumar Clerk DTO Office, Sangrur, PW8 ASI Malkiat Singh and thereafter, the Public Prosecutor closed the prosecution evidence.

8. Statements of the accused were recorded under Section 313 Cr. P. C., wherein they denied all the incriminating circumstances appearing against them and pleaded their innocence and false implication in the case. The accused did not opt to lead any evidence in defence.

9. Based on the evidence led, the appellants came to be convicted and sentenced by the Court of Additional Sessions Judge-I, Sangrur as under:-

Names of convicts	Sections	Sentenced	Fine	In default of payment
1. Shiv Kumar, 2. Sandeep Sahota 3. Kaku	323/34 IPC	RI for 01 year	Rs.1000/- each	RI for 01 month

1. Shiv Kumar, 2. Sandeep Sahota 3. Kaku	506/34 IPC	RI for 01 year	Rs.1000/- each	RI for 01 month
1. Shiv Kumar, 2. Sandeep Sahota 3. Kaku	341/34 IPC	SI for 01 month	Rs.500/- each	SI for 07 days

All the sentences were ordered to run concurrently.

10. The aforementioned judgment of conviction is under challenge in the present appeal.

11. The learned counsel for the appellants contends that the Trial Court did not consider the inherent inconsistencies and glaring contradictions in the prosecution version. The motive of the attack had not been established. The witnesses who had deposed during the course of trial were all interested witnesses and no attempt was made to join independent witnesses despite the fact that the place of occurrence was a public place. He contends that the accused/convicts came to be acquitted for having committed the offence under Section 379B IPC and this fact itself falsifies the prosecution version in its entirety with respect to the other offences as well. In fact, the injuries are apparently self-suffered with a view to implicate the appellants. He, therefore, contends that the judgment of conviction be set aside and the appellants be acquitted of the charges framed against them.

12. On the other hand, the learned State counsel contends that the offence against the appellants is well-established from the evidence on record. The medical evidence is totally in consonance with the ocular account. Merely because the convicts have been acquitted for the offence under Section 379B IPC did not falsify the prosecution version in its entirety.

CRA-S-4102-SB-2017 (O&M)

-6-

He, therefore, contends that there was no reason to interfere with the judgment of conviction and the appeal was liable to be dismissed. He has also placed on record the custody certificates of appellant Nos.1 to 3, as per which, appellant No.1 has undergone 11 months and 11 days, appellant No.2 has undergone 06 months and 15 days and appellant No.3 has undergone 06 months and 15 days out of the maximum sentence of 01 year.

13. I have heard the learned counsel for the parties.

14. In the instant case, the case of the prosecution is well-established from the deposition of the witnesses. The medical evidence is totally in consonance with the ocular account. Merely because the convicts were acquitted of the offence under Section 379B IPC would not demolish the case of the prosecution in its entirety. Further, in the face of the evidence available on record inculcating the appellants, the absence of any motive would pale into insignificance

15. In view of the aforementioned discussion, I find no reason to interfere with the well-reasoned judgment of conviction recorded by the Court of Additional Sessions Judge-I, Sangrur and finding no merit in the present appeal, the same stands dismissed.

16. As regards the imposition of sentence, it may be pointed out that the occurrence pertains to the year 2016. As many as 07 years have elapsed ever since. There is no evidence that the appellants have committed similar offences thereafter. Even otherwise, they have undergone a substantial period of their custody as is borne out from the custody certificates placed on record. Therefore, while upholding the conviction of the appellants, their

CRA-S-4102-SB-2017 (O&M) -7-

sentence is reduced to the period already undergone by them. The quantum of fine and sentence in default shall however remain intact.

(JASJIT SINGH BEDI)
JUDGE

02.05.2023
JITESH

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No