

2023:PHHC:048923

In the High Court for the States of Punjab and Haryana at
Chandigarh

CRR-2003-2006

Date of Decision: March 28, 2023

Bikramjit Singh @ Bikkar Singh and another

.... Petitioners

Versus

State of Punjab

... Respondent

CORAM: HON’BLE MR. JUSTICE VIVEK PURI

Present: Mr. B. Ramsroop, Advocate,
for the petitioners.

Mr. Hittan Nehra, Addl. A.G., Punjab.

Vivek Puri, J.

The petitioners have been arraigned as accused in the case bearing FIR No. 51, dated 17.05.2000, under Sections 326/323/34 of the Indian Penal Code (for short ‘IPC’), registered at Police Station Sadar Faridkot. The petitioners were convicted for having committed the offence under Sections 326, 323/34 IPC by the Court of learned Judicial Magistrate First Class, Faridkot, in terms of the judgment dated 06.09.2005 and were sentenced as following:-

<i>U/Section</i>	<i>Period of sentence</i>	<i>Fine</i>	<i>In Default</i>
326 IPC	RI 3 years	Rs.2000/-	RI 30 days (each)
323 IPC	RI one year	Rs.500/-	RI 15 days (each)

It was further directed that both the sentences shall run concurrently and the period of detention, if any, already undergone by

the petitioners during the investigation, enquiry or trial of the case shall be set off against the term of imprisonment.

The petitioners had preferred an appeal against the aforesaid judgment of conviction and order of sentence. However, the appeal has been dismissed by the Court of learned Additional Sessions Judge, Faridkot, vide judgment dated 07.09.2006.

The present revision has been preferred by the petitioners assailing the aforesaid judgments vide which the petitioners have been convicted and sentenced and furthermore, the appeal has been dismissed.

The facts as put forth by the prosecution are to the effect that the marriage of Harjit Kaur, complainant was solemnized with Karamjit Singh about 11/12 years prior to the occurrence. Labh Singh, petitioner no.2 is the brother-in-law (jeth) of the complainant. On 16.05.2000 at about 9/10 p.m. the complainant along with her husband and children were present in the house. The electric lights in the house were on. The petitioner no.1 is the nephew of the complainant. Both the petitioners armed with gandasas arrived at the spot. The petitioner no.2 called the husband of the complainant outside the house. The complainant along with her husband Karamjit Singh came outside the house. The petitioner no.2 caught hold Karamjit Singh and the petitioner no.1 inflicted the gandasas blow from the reverse side on his left shoulder. The petitioner no.2 inflicted three gandasas blows from the reverse side on the elbow and right shoulder of Karamjit Singh. An alarm was raised. The complainant tried to intervene. The petitioner no.1 inflicted the gandasas blow from the sharp side on the head of the complainant. The petitioner no.2 inflicted 3 gandasas blows from the reverse side on the left

shoulder, right knee and left elbow of the complainant. An alarm was raised and the petitioners slipped away from the spot along with the weapons. It has been alleged that the injuries were inflicted as the petitioners were suspecting that the complainant had stopped her husband Karamjit Singh from having relations with them. On account of fear, they did not come out of the house during the night hours and on the following day, the complainant along with her father came to GGS Medical Hospital, Faridkot for treatment where she along with her husband were medico legally examined.

On completion of the investigation, the challan was presented against the petitioners. A prima facie case under Sections 326/323/34 IPC was made out against the petitioners. The contents of the charge were read over and explained to them to which they pleaded not guilty and claimed trial.

To substantiate its case, the prosecution has examined Harjit Kaur, PW3, complainant and Karamjit Singh, PW4, her husband, the injured. The case has been registered on the basis of the statement (Ex.PA) of Harjit Kaur, PW3 that has been recorded by ASI Gurjant Singh, PW9. The injured were declared fit to make statement by Dr. Manjit Singh, PW7. Both the injured were medico legally examined by Dr. K.K. Aggarwal, PW2. Following injuries were found on the person of Harjit Kaur, PW3:-

“1. Incised wound 6 cm x 1 cm present on top of head on left side, 3 cm lateral from midline and 10 cm behind anterior hair line. Clotted blood and swelling was present.

2. *Reddish contusion 4 cm x 5 cm present on top of left shoulder joint.*
3. *Swelling in area of 4 cm x 3 cm was present on back of left upper arm and elbow joint.*
4. *Swelling in area of 4 cm x 3 cm on anterior aspect of right knee joint.”*

The injury no.1 was subjected to X-ray report and rest of the injuries were declared to be simple in nature. Dr. Navkiran Kaur, PW1 had conducted the X-ray examination and fracture of parietal bone was detected. She has submitted the report (Ex.PA) and on the basis of the said report, injury no.1 was declared to be grievous in nature. Dr. K.K. Aggarwal, PW2, had also medico legally examined Karamjit Singh, PW4 and the following injuries were found on his person:-

- “1. Reddish brown abrasion 3 cm x 1 cm present on back of right upper arm in lower 1/3rd.*
- 2. Reddish brown abrasion 1.5 cm x 1 cm present on back of right elbow joint. Swelling of whole of elbow joint was present. Movements were restricted and painful.*
- 3. Reddish contusion 5 cm x 1 cm on lateral aspect of right upper arm in upper half.*
- 4. Reddish contusion 3 cm x 2 cm on back of left shoulder joint.”*

The injuries on his person have been declared to be simple in nature. The recovery of weapon was effected from the petitioners in the presence of LC Pal Singh, PW5. Raj Rani, PW6, was working as Record Keeper in GGS Medical College, Faridkot and as per her deposition Harjit Kaur, PW3, remained admitted in the Hospital from 17.05.2000 to 25.05.2000. Dr. Manjit Singh, PW7, had declared the complainant fit to make statement. Initially, part statement of Nihal

Singh, PW8 was recorded, but subsequently, he was given up having been won over by the petitioners. ASI Gurjant Singh, PW9, had conducted the investigation of the case.

In their statements recorded under Section 313 of the Code of Criminal Procedure, the petitioners have denied the correctness of incriminating evidence appearing against them and have pleaded false implication. They have also examined Kulwant Singh, DW1, who had testified to the effect that some unknown persons had inflicted injuries on the person of the complainant and her husband. CII Jaswinder Singh, DW2, has proved the copy of the FIR No. 85 dated 29.08.2001 (Ex.DY), registered at the instance of Inderjit Singh, wherein the complainant and her husband have been challaned.

In terms of the judgment of conviction and order of sentence dated 06.09.2005, the petitioners were convicted and sentenced as aforesaid by the learned trial Court. The appeal against the said judgment has also been dismissed.

I have heard learned counsel for the parties and perused the record.

Learned counsel for the petitioners has primarily assailed the judgments of the Courts below on the score that the occurrence took place on 16.05.2000 at about 9/10 P.M., but the FIR has been registered on 17.05.2000 at 1.45 p.m. after a delay of more than 15 hours. The eye witness count hinges upon the deposition of Harjit Kaur, PW3 and Karamjit Singh, PW4, who are the husband and wife. No independent witness has been examined by the prosecution. The son of the complainant was present in the house, but even he has not been

examined. The blood stained clothes have not been recovered in the instant case and even there is nothing to indicate that any blood was found at the spot. The complainant was having matrimonial dispute with her husband and there is no reliable evidence to indicate that the petitioners had any motive to inflict the injuries upon the complainant and her husband.

On the contrary, while supporting the judgments of the learned Courts below, the learned State counsel has contended that the occurrence took place on 16.05.2000 during the night hours. It is a categorical version of the complainant that on account of fear, they remained in the house and on the following day, she accompanied by her father came to the hospital. The delay, if any, is satisfactorily explained. There is nothing to indicate that any one was present at the spot at the time of occurrence as occurrence had taken place during the late evening hours. The son of the complainant is a young boy aged about 11/12 years and his non-examination does not in any manner render the case of the prosecution is to be doubtful. Although, there was a matrimonial dispute and a divorce petition was pending between the complainant and her husband about 10 years ago, but the same has been dismissed and subsequently, they have been residing together. Moreover, in the instant case, there is satisfactory and reliable direct evidence corroborated by medical evidence and in such circumstances, the question of motive pales into insignificance.

The importance of lodging the FIR with due promptitude has been highlighted in fairly substantial number of judicial pronouncements. In the event, the matter is reported to the police with

due promptitude, it rules out the possibility of introduction of coloured, concocted, exaggerated or false version, but at the same time, it has to be borne in mind that the delay in lodging the FIR is not necessarily a circumstance which would warrant the rejection of the prosecution case in entirety. The FIR is expected to reflect true picture of the occurrence without any embellishment or fabrication. No specific time limit has been fixed for reporting the matter to the police. The delay in informing the police with regard to the incident or lodging of FIR is bound to occur due to the variety of reasons depending upon the surrounding circumstances existing at the time of and even subsequent to the commission of the crime. In the event, there is a satisfactory explanation to justify the delay in lodging the FIR, the fact that there is delay in lodging the FIR becomes inconsequential.

In the instant case, the occurrence took place on 16.05.2000 at about 9/10 PM. The complainant and her husband reached GGS Medical Collage and Hospital on 17.05.2000 and in the MLR, the time of arrival has been recorded as 6 A.M. The explanation put forth by the prosecution is to the effect that on account of fear, the complainant and her husband remained in their house and in the morning hours, they along with the father of the complainant came to the hospital. The explanation as submitted by the prosecution is liable to be accepted, particularly because the petitioners are the relatives of the complainant and residing in the same village. The lurking fear on the mind of the complainant of repetition of the attack may have prevented her from immediately reaching the hospital and approaching the police for registration of the case. In the early hours on the following day, both the

injured were taken to the hospital and the time of arrival has been recorded as 6 A.M. The MLR also indicates that duration of injuries has been specified to be within 24 hours and the same co-relates with the time of occurrence. The statement (Ex.PA) of the complainant has been recorded by the Investigating Officer on 17.05.2000 at about 1 p.m. There is nothing to indicate that a false, coloured, exaggerated or concocted version has been introduced as a result of afterthought.

It shall not be out of place to mention here that as per the version given by Kulwant Singh, DW1, some unknown persons had inflicted injuries on the persons of the complainant and her husband during the late evening hours. In such circumstances, the occurrence has not sought to be disputed by the petitioners, but it has been alleged that some unknown persons had inflicted injuries and the assailants could not be identified on account of darkness. It may be mentioned here that the petitioners are the relatives of the complainant and her husband. It is a specific version to the effect that the electric lights in the house were on. The complainant and her husband must have identified the petitioners as assailants, who are the close relatives. Moreover, no reason is made out as to why the complainant and her husband will screen away the real offenders and falsely implicate the petitioners.

Harjit Kaur, PW3 and her husband Karamjit Singh, PW4, had sustained injuries in the occurrence. While appearing in the witness box, they have given the eye witness count of the occurrence. The genuineness of the version given by them has sought to be disputed on the score that they being relatives are interested witnesses and their

deposition cannot be relied upon. No independent witness has been examined by the prosecution.

Merely because both the injured are husband and wife and no other witness has been examined with regard to the occurrence cannot be termed to be circumstance to discard the version as put forth by them, if otherwise, the same is found to be credible. If the evidence of the witnesses is free from any doubt and inspire confidence, it cannot be discarded on the ground that the witnesses are related to each other. In the case in hand, both the witnesses i.e. Harjit Kaur, PW3 and Karamjit Singh, PW4 had sustained injuries in the occurrence and as such, their presence at the spot cannot be disputed. Both the witnesses have given satisfactory count with regard to the sequence of events and manner in which the injuries have been inflicted upon them by the petitioners. The version given by them is fairly reliable and forms a valid ground for founding the conviction of the petitioners. Moreover, the eye witness count as put forth by them is duly corroborated by the medical evidence. One of the injuries on the person of Harjit Kaur, PW3, falls under Section 326 IPC.

It is no doubt true that it is emerging in the evidence that Jasbir Singh, the son of the complainant, was present in the house, but he has not been examined and it cannot be termed to be a circumstance which may tend to raise any doubt in the genuineness of the prosecution version. The son of the complainant was aged about 11/12 years at the time of the occurrence and his non-examination will not render the case of the prosecution is to be doubtful, particularly because, the complainant along with her husband, who had sustained injuries, had given

satisfactory count with regard to the occurrence. Non recovery of the blood stained clothes cannot be termed to be a circumstance to disbelieve the version of the prosecution. There is nothing on record to indicate that the blood had spilled on the cloth of the injured or on the ground.

It is also emerging on record that the complainant was having matrimonial dispute with her husband and divorce proceedings were also initiated. Subsequently, the matter was amicably settled and they started residing together. The said dispute took place about 10 years prior to the occurrence. The matrimonial dispute at an earlier occasion cannot be termed to be a reason to falsely implicate the petitioners in the instant case.

The motive assigned for the occurrence is to the effect that the petitioners were suspecting that the complainant had been stopping her husband Karmajit Singh from having relations with the petitioners. In the instant case, there is direct evidence with regard to the occurrence and the same is duly corroborated by medical evidence. In such circumstances, the question of motive pales into insignificance.

Moreover, an additional credence is available in the instant case as weapon of offence i.e. gandas had been recovered from both the petitioners. The version as put forth by Harjit Kaur, PW3 and Karamjit Singh, PW4 is fairly reliable. The same is duly corroborated by the medical evidence and the other circumstances appearing on record. In such circumstances, no error can be found in the judgments of the learned Courts below vide which the petitioners have been convicted.

Lastly, it has been pointed out by the learned counsel for the petitioners that the occurrence took place in the year 2000 and the

petitioners may be granted leniency in the matter of sentence. In this regard, it may be mentioned here that Harjit Kaur, PW3 had sustained fracture on her skull and furthermore, she remain hospitalized for a period of about 9 days. In such circumstances, an adequate sentence commensurate with the guilt has been imposed upon the petitioners, which does not call for any interference by this Court.

For the aforesaid reasons, finding no merit in the present revision, the same is dismissed.

The petitioners are on bail and necessary steps be initiated for effecting their re-arrest so that they may undergo the sentence imposed upon them.

March 28, 2023
vkd

(Vivek Puri)
Judge

Whether reasonable/speaking	:	Yes
Whether reportable	:	Yes