

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

101

CRA-S-1743-SB-2004 (O&M)
Date of decision : 30.01.2024

Major Singh and another.....Appellants

Versus

State of Punjab..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Angrej Singh, Advocate for
Mr. J.S. Brar, Advocate for the appellant No.2-Sukhdev Singh.

Appeal qua appellant no.1-Major Singh, who died on 22.05.2006,
stands abated vide order dated 06.01.2023.

Mr. Manipal Singh Atwal, DAG, Punjab.

Mr. R.K. Girdhar, Advocate for the complainant.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 07.08.2004, passed by the learned Additional Sessions Judge, Faridkot, whereby appellants were convicted and sentenced as under:

Accused Major Singh			
Offence u/s	Imprisonment	Fine	Default sentence
307/34 IPC	RI for seven years	Rs.500/-	RI for one month
324/34 IPC	RI for one and half year	-	-
323 IPC	RI for six months	-	-

Accused Sukhdev Singh			
Offence u/s	Imprisonment	Fine	Default sentence
307/34 IPC	RI for seven years	Rs.500/-	RI for one month
324/34 IPC	RI for one and half year	-	-
323 IPC	RI for six months	-	-

2. Shorn of unnecessary details, the facts are that, Bohar Singh-complainant made a statement to the police that on 29.07.2001, he saw that

Major Singh and other accused caused blows to his brother-Jagrup Singh and when he asked them not to cause injuries, then they also gave blows to him and his brother-Lachhman Singh as well. Thereafter, they were admitted in the Civil Hospital, Faridkot. An FIR came to be registered against the accused persons.

3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused-appellants and the case of the accused-appellants was committed to the Court of Sessions. On finding a prima facie case, charges under Sections 148, 307, 323, 324 read with Section 149 IPC were framed against them, to which they pleaded not guilty and claimed trial.

4. The prosecution in order to bring home the guilt of the accused examined as many as 6 PWs. On closure of their evidence, statements of the accused were recorded under Section 313 of Cr.P.C. They denied all the incriminating circumstances that appeared against them in the prosecution case while pleading false implication by the police.

5. The learned trial Court after hearing the learned counsel for the parties, convicted and sentenced the accused-appellants as noticed above.

6. Aggrieved appellants are before this Court.

7. The present appeal has been abated qua Appellant No.1-Major Singh as in the order dated 06.01.2023, learned counsel for the appellants had stated that appellant No.1 had been died.

8. Learned counsel for appellant No.2, at the very outset, gives up challenge to the conviction and prays for reducing the sentence awarded to the appellant to the period already undergone, it being 1 year 10 months and 26 days (including remission), on the ground that simple injuries have been attributed to the appellant-Sukhdev Singh, who is suffering from cancer and belongs to the poor strata of the society; children of marriageable age; not involved in any other case;

never misused the concession of bail and has been facing the agony of protracted trial for the last 22 years.

9. On the other hand, learned State counsel submits that the trial Court after appreciating the evidence led by the prosecution, has rightly convicted and sentenced the appellant, therefore, prays for the dismissal of the present appeal. He, however, affirms the non-involvement of the appellant in any other criminal case and the period undergone by him. He confirms the fact that appellant is suffering from cancer of the neck and has also produced the medical record regarding the same.

10. Heard the learned counsel on either side and perused the record.

11. Evidently, PW4-Bohar Singh, complainant, in his deposition specifically named the appellants and their roles of having caused injuries to the other employee-Sanjiv, which stood corroborated by statements of PW1-Lachhman Singh and PW6-Jagrup Singh, who were also injured in the occurrence. The MLR of the injured were also proved by PW3-Bhupinder Singh, Pharmacist. On going through the evidence on record, the prosecution has proved the case against the appellant. Thus, the trial Court has rightly convicted the appellant, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, his conviction is upheld.

12. Insofar as the prayer for reducing the sentence of the appellants to the period already undergone is concerned, it would be worthwhile to make a reference to the judgment in **Surinder Singh vs. State (UT of Chandigarh)**, 2021 SCC OnLine SC 1135, wherein the accused was convicted under Section 307 IPC and Hon'ble the Supreme Court reduced the sentence of three years to 3 months and 19 days, by considering that the occurrence took place in 1999 and he was not a habitual offender, rather a first-time convict.

13. Furthermore, in **Mohinder Singh and another vs. State of Punjab**, 1987 Supp SCC 65 the sentence of co-accused, convicted under Section 307 IPC, was modified by holding that no useful purpose will be served by sending him to jail after 12 years from the date of incident, in view of the fact that he was only 20 years old at that time.

14. In **Shankar Lal vs. State of Rajasthan** 1992(3) Crimes 411, the accused was convicted under Section 307 IPC and sentenced for three years, the High Court, by enhancing the fine, to be paid to the injured, reduced his sentence to the period already undergone by him, taking into consideration that he had not committed any other offence. Similarly in **Arjun and Others vs. State of Haryana**, CRA-S-1134-SB-2008, decided on 07.06.2023, the sentence awarded to the accused-appellants, who were convicted under Sections 323/34, 325/34 and 506 IPC for RI of 2 years, was reduced to the extent of already undergone, while observing that the appellants had already suffered sentence of 1 month, 13 days and 15 days respectively and faced the agony of trial for almost 17 years.

15. Humanistically viewing, the appellant having suffered the ignominy of trial since long; successfully warded off his crime-proneness-an evident learning of a lesson; his socio-economic circumstances, this Court finds extenuation to be implicit. Thus, it would serve the ends of justice to reduce his sentence to the period already undergone, however, keeping the fine intact.

16. The order of sentence dated 07.08.2004 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

30.01.2024
M.Kamra

(AMAN CHAUDHARY)
JUDGE

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