

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

CRA-S-1989-SB-2004 (O&M)
Date of decision: 30.01.2024

Balwinder Singh and others

..... Appellants

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Manish Bansal, Advocate and
Mr. Saksham Parmar, Advocate for appellant No.1.

Mr. Davinder Singh Khurana, Advocate for appellant No.2.

Mr. RA Sheoran, Advocate for appellant No.3.

Ms. Simsi Dhir Malhotra, Advocate/Legal Aid Counsel
for appellant No.4.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 29.09.2004, passed by the learned Additional Sessions Judge, Ferozepur, whereby appellants were convicted and sentenced as under:

Balwinder Singh			
Offence u/s	Imprisonment	Fine	Default sentence
326 IPC	RI for three years	Rs.1000/-	RI for three months
325/34 IPC	RI for two years	Rs.300/-	RI for one month
324 IPC	RI for one year	Rs.200/-	RI for one month
323/34 IPC	RI for six months	-	-
341 IPC	SI for 15 days	-	-
Bira, Billu, Gaili			
Offence u/s	Imprisonment	Fine	Default sentence
326/34 IPC	RI for three years	Rs.500/-	RI for two months
325/34 IPC	RI for two years	Rs.300/-	RI for one month
324/34 IPC	RI for one year	Rs.200/-	RI for one month
323/34 IPC	RI for six months	-	-
341 IPC	SI for 15 days	-	-

All the sentences shall run concurrently.

2. Shorn of unnecessary details, the facts are that, Parkash Chand-injured made a statement to the police that on 06.09.2003, when he alongwith his brother were returning to their village, all the accused came there. A quarrel ensued between them. Balwinder Singh and other accused caused blows to him. Thereafter, the injured was admitted in the Civil Hospital, Ferozepur. An FIR came to be registered against the accused.
3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused-appellants. On finding a prima facie case, charges under Sections 307/325/323/342/34 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. Learned counsel for the appellants, at the very outset, gives up challenge to the conviction and prays for reducing the sentence awarded to appellants to the period already undergone on the ground that they belong to the poor strata of the society; sole breadwinner of their families; never misused the concession of bail and have been facing the agony of protracted trial for the last 21 years. They have also submitted that the appellants are ready to compensate the injured.

8. 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 appellants, therefore, prays for the dismissal of the present appeal.

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

10. Evidently, PW3-Parkash Chand, complainant, in his deposition specifically named the appellants and their roles, having caused injuries to him, which stood corroborated by PW4-Tarsem Lal. The MLR of the injured was also proved by PW1-Dr. Gian Singh. On going through the evidence on record, the prosecution has proved the case against the appellants. Thus, there is no scope for interference in the findings recorded and conclusion arrived at by the trial Court. As such, their conviction is upheld.

11. 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 **Keshab Naskar vs. State**, 2012 SCC OnLine Cal 9400, wherein keeping in view that 25 long years had since elapsed from the date of the incident, never misused the privilege of post-conviction bail, the sentence of imprisonment under Section 326 IPC of 6 years was reduced to the the period already undergone i.e. 14 days pre-trial and about a month and 10 days post-trial. In **Lehamber Singh vs. State of Punjab**, 2016 SCC OnLine P&H 8926, this Court had, in a case of conviction under Section 326 IPC, in consideration of the circumstances that the accused had faced the agony of protracted trial for the last more than 10 years; was a first offender; sole bread earner in the family; no antecedents of similar nature, taken a lenient view furthering the cause of justice and reduced the sentence from one year and a half to the period of one month and thirteen days, already undergone.

12. As regards, conviction under Section 325 IPC is concerned, a

reference can be made to **Ram Kumar and Another vs. State of Haryana** in Criminal Appeal No.104 of 2022, decided on 19.01.2022, wherein the appellants had given lathi blows and were thus convicted under Sections 323/325, however Hon'ble the Supreme Court while considering the fact that 14 years had elapsed since the date of incident, reduced their sentence to the period already undergone by them i.e. six weeks out of 1 year. Further, in **Nakchhed vs. State of U.P.**, 1998 SCC (Cri) 603, the accused was convicted under Section 325 IPC, Hon'ble the Supreme Court reduced the sentence to the period already undergone out of 3 years of rigorous imprisonment, by observing that 8 years had passed away and during this period, all the wounds of the parties have healed up and no purpose would be served to sending the accused behind bars.

13. Hon'ble The Supreme Court in **Manjappa vs. State of Karnataka**, (2007) 6 SCC 231, wherein the accused was convicted and sentenced under Sections 325, as he had assaulted the complainant with a stone, while observing that the appellant had undergone and had remained in custody for about 15 days as also that after the incident 10 years had passed, held that the sentence already undergone by the appellant was sufficient and adequate in the facts and circumstances of the case.

14. In **Mohamad Hanif @ Munno Hussainmiya Shaikh vs. State of Gujarat** (2019) 01 SC CK 0378, the appellant was convicted under Section 325 IPC for a sentence of imprisonment of 2 years for giving a stick blow on the head of the complainant, which was reduced to 1 year by the Appellate Court. The sentence was converted to already undergone, which was one and a half month as the incident had occurred more than 22 years back and that the injury was found to be simple in nature.

15. This Court in **Pardeep Kumar vs. State of Punjab**, CRR-340-1992

decided on 31 January 2008, where the accused was convicted under Section 325 IPC, reduced the sentence to already undergone, i.e. 16 days out of maximum punishment of 4 months of rigorous imprisonment, as the petitioner had faced the agony of trial for 19 years. 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.

16. Humanistically viewing, the appellants having suffered the ignominy of trial since long; successfully warded off their crime-proneness-an evident learning of a lesson; their socio-economic circumstances, this Court finds extenuation to be implicit. Thus, it would serve the ends of justice to reduce their sentence to the period already undergone, while enhancing the fine to Rs.5000/- each, which shall be paid to the injured as compensation under Section 357 CrPC, within a period of two months, failing which, the present appeal shall deem to have been dismissed.

17. The order of sentence dated 29.09.2004 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

30.01.2024

ashok

(AMAN CHAUDHARY)

JUDGE

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