

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRA-S-824-SB-2004 (O&M)
Date of decision : 01.02.2024

Sukhbir Singh and others

.....Appellants

Versus

State of Punjab

..... Respondent

CRR-1863-2004 (O&M)

Smt. Surinder Kaur

..... Petitioner

Versus

Sukhchain Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. HS Randhawa, Advocate
for the appellants in CRA-S-824-SB-2004 and
for the respondents in CRR-1863-2004.

Mr. Gautam Dutt, Advocate and
Mr. Vishal Sharda, Advocate
for the petitioner in CRR-1863-2004 and
for the complainant in CRA-S-824-SB-2004.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. This common order shall dispose of the above-mentioned criminal appeal and revision, as the same issues are involved therein.
2. Challenge in the present appeal is to the judgment/order dated 07.04.2004, passed by the learned Sessions Judge, Hoshiarpur, whereby the appellants were convicted and sentenced as under:

Sukhbir Singh			
Offence u/s	Imprisonment	Fine	Default sentence
308 IPC	RI for three years	Rs.500	RI for one month
323/34 IPC	RI for six months	-	-

452 IPC	RI for two years	Rs.500	RI for one month
Kulbir Singh			
Offence u/s	Imprisonment	Fine	Default sentence
308/34 IPC	RI for three years	Rs.500	RI for one month
323 IPC	RI for six months	-	-
452 IPC	RI for two years	Rs.500	RI for one month
Santokh Kaur			
Offence u/s	Imprisonment	Fine	Default sentence
308 IPC	RI for three years	Rs.500	RI for one month
323/34 IPC	RI for six months	-	-
452 IPC	RI for two years	Rs.500	RI for one month
Nirmal Kaur			
Offence u/s	Imprisonment	Fine	Default sentence
308/34 IPC	RI for three years	Rs.500	RI for one month
323/34 IPC	RI for six months	-	-
452 IPC	RI for two years	Rs.500	RI for one month

All the sentences were ordered to run concurrently.

3. The complainant-Surinder Kaur Kumar has also filed CRR-1863-2004, against acquittal of accused-respondent Nos. 1 to 4, namely, Sukhchain Singh, Daljit Singh @ Ajit Singh, Balbir Singh, Dilbagh Singh, respectively.
4. Shorn of unnecessary details, the facts are that, on 15.06.2002, when complainant-Surinder Kaur was standing in the gate and asked Nimmo not to dump the rubbish of their dogs in front of their gate, all the accused came there. A quarrel ensued between them. Sukhbir Singh and other accused caused blows to her and her son. Thereafter, the injured was admitted in the hospital. An FIR came to be registered against the accused.
5. 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 147, 148, 149, 308, 323, 452 IPC were

framed against them, to which they pleaded not guilty and claimed trial.

6. The prosecution in order to bring home the guilt of the accused examined as many as 8 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.

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

8. Aggrieved appellants are before this Court.

9. The appellant No.4-Nirmal Kaur is stated to have died on 01.12.2013, a copy of her death certificate has been produced in the Court, the same is taken on record. As such, the present appeal qua her stands abated.

10. Learned counsel for the appellants in CRA-S-824-SB-2004, at the outset, gives up challenge to the conviction and prays for reduction of the sentence awarded to appellants No.1 to 3 to the period already undergone, it being appellant No.1-1 year, 2 months; appellant No.2-27 days, on the ground that they belong to the poor strata of the society; not involved in any other case; never misused the concession of bail; have been facing the agony of protracted trial for the last 22 years; appellant No.3 is an old lady aged 71 suffering from various ailments and appellant No.1 is 50% permanently disabled, as per the disability certificate, produced in the Court which is taken on record. Further, learned counsel states that the complainant and the accused are neighbors having land situated adjacent to each other and the dispute is over throwing the dung of dogs and the respondents in CRR-1863-2004 have not attributed any injury except lalkara. He has also submitted that appellant No.1 is ready to compensate the complainant, as the injury was attributed to him.

11. 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 appellants, therefore, prays for the dismissal of the present appeal. He further produced a letter received from the Superintendent, Central Jail, Hoshiarpur and states that appellant No.3 was never admitted in the jail. He, however, affirms the non-involvement of appellants in any other criminal case and the period undergone by them.

12. Learned counsel for the petitioner in CRR-1863-2004 submits that the accused-respondent Nos. 1 to 4 had actively participated in the commission of crime, despite that the trial Court has acquitted them.

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

14. Evidently, PW4-Surinder Kaur, complainant, in her deposition specifically named the appellants and their roles, having caused injuries to her and her son, which stood corroborated by PW5-Manvir Singh. The MLR of the injured was also proved by PW1-Dr. Ranjit Singh. On going through the evidence on record, the prosecution has proved the case against the appellants. Thus, the trial Court has rightly convicted the appellants, however, finding no incriminating evidence against Sukhchain Singh, Daljit Singh @ Ajit Singh, Balbir Singh and Dilbagh Singh, they were acquitted, therefore, there is no scope for interference in the findings recorded and conclusion arrived at.

15. Insofar as the prayer for reducing the sentence of appellant Nos.1 to 3 to the period already undergone is concerned, it would be worthwhile to make a reference to the judgment in **Omanakkuttan and others v. State of Kerala, SLP (Crl.) No.4500 of 2019**, wherein the accused were convicted under Sections 324, 326, 308 read with Section 34 IPC and Hon'ble the Supreme Court reduced the sentence of five years to 2 years, by considering that the occurrence took place in

2002. 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. In **Satish vs. State of U.P.**, (2021) 14 SCC 580, Hon'ble the Supreme Court had observed that, "Whilst it is undoubtedly true that society has a right to lead a peaceful and fearless life, without free roaming criminals creating havoc in the lives of ordinary peace loving citizens. But equally strong is the foundation of reformatory theory which propounds that a civilised society cannot be achieved only through punitive attitudes and vindictiveness; and that instead public harmony, brotherhood and mutual acceptability ought to be fostered. Thus, first time offenders ought to be liberally accorded a chance to repent their past and look forward to a bright future. [Maru Ram v. Union of India, (1981) 1 SCC 107 : 1981 SCC (Cri) 112]".

17. Humanistically viewing, appellant Nos.1 to 3 having suffered the ignominy of trial for a long time; their socio-economic circumstances and evidently learnt a lesson by successfully warding off their crime-proneness in life, extenuation is found to be implicit. Thus, it would serve the ends of justice to reduce their sentence to the period already undergone, while enhancing the fine from Rs.500/- to Rs.5000/-, shall be paid to the injured by appellant No.1-Sukhbir Singh as compensation under Section 357 CrPC, within a period of two months, failing which, the present appeal shall deem to have been dismissed.

18. While upholding the conviction of the appellants, the order of sentence dated 07.04.2004 is modified and to the said extent, CRA-S-824-SB-2004 stands partly allowed, whereas CRR-1863-2004 is hereby dismissed.
19. Photocopy of this order be placed on the connected file.

01.02.2024
ashok

(AMAN CHAUDHARY)
JUDGE

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