



CRA-D-658-DB-2018 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-23794-2024 & 23795-2024,
CRM-38845-2023 in/and
CRA-D-658-DB-2018
Date of decision : 03.10.2024

Ashwani Kumar @ Teeta

... Appellant

Versus

State of Punjab

... Respondents

CORAM : HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MS. JUSTICE LAPITA BANERJI

Present:- Mr. Suneet Pal Singh Aulakh, Advocate for the applicant/appellant.
Mr. Aftab Singh Khara, Senior DAG, Punjab.
Mr. Preetinder Singh Ahluwalia, Advocate for the complainant.

Anupinder Singh Grewal, J. (Oral)

CRM-23795-2024

This application is for fixing an actual date of hearing of the main appeal.

2. Issue notice in the application to the non-applicant/respondent.
3. At the asking of the Court, Mr. Aftab Singh Khara, Senior DAG, Punjab, accepts notice on behalf of the respondent.
4. Mr. Preetinder Singh Ahluwalia, Advocate has put in appearance on behalf of the complainant.
5. Heard.



6. For the reasons stated in the application, the same is allowed and with the consent of the parties, the main appeal is taken up on Board today itself.

Main appeal

This criminal appeal is directed against the judgment of conviction and order of sentence dated 04.04.2018 passed by the Additional Sessions Judge, Amritsar, in case FIR No.158 dated 01.08.2010, registered at Police Station E. Division, Amritsar and sentenced as under:-

Offence	Sentenced to R.I.	Fine	In default of payment of fine
307 IPC	Life imprisonment	Rs.10,000/-	06 months RI
326 IPC	07 years	Rs.10,000/-	03 months RI
325 IPC	03 years	Rs.5,000/-	02 months RI
324 IPC	02 years	Rs.5,000/-	01 month RI
323 IPC	01 years	Rs.5,000/-	01 month RI
379-B(2) IPC	10 years	Rs.10,000/-	03 months RI
506 IPC	03 months	Rs.1,000/-	15 days RI
341 IPC	06 months	Rs.1,000/-	15 days RI

The trial Court had ordered that all the sentences shall run concurrently.

2. It is the case of the prosecution that when the complainant was present in his house on 12.08.2016 at around 6.00 pm, he was attacked by the appellant and other accused. The appellant had raised *lalkara* and inflicted injuries with a datar (sharped edge weapon) on the front side of the head of the complainant. Co-accused had also given several injuries on the person of the complainant with



datar. The appellant is also stated to have taken away mobile phone, Rs.1 lac and 02 tola gold chain from the complainant after he had fallen to the ground. The motive behind the occurrence is stated to be a dispute between the complainant and the appellant who are neighbours with regard to encroachment which led to civil litigation.

3. The complainant while deposing as PW-1 had proved the prosecution case which was corroborated by PW-2 Smt. Manisha and PW-3 Jatin Sareen. They had stated that they were present at the time of occurrence and PW-5 Dr. Shekhar Chumber had examined the complainant and found 34 injuries on his person out of which 27 injuries were declared grievous to life.

4. The appellant in his statement under Section 313 Cr.P.C. had taken the defence that no such occurrence had taken place and the complainant had misbehaved with the wife of the appellant and got registered a false case against the appellant. He also stated that the injuries were exaggerated and the complainant being a Doctor had manipulated the report. He had also examined Dr. Deep Rattan as DW-1 in his support, who had stated that the appellant had also received an injury i.e. stitched wound of size 5 cm with four sutures intact present vertically on left side of forehead, 5 cm about medial margin of left eyebrow, wound is linear.

5. On appreciation of evidence, learned Additional Sessions Judge convicted and sentenced the appellant vide judgment of conviction and order of sentence dated 04.04.2018.

6. Learned counsel for the appellant submits that it was a case of simpliciter quarrel between the neighbours. There was a delay of 08 days in



conducting the medical examination. Although the MLR indicates that there were 34 injuries out of which 07 injuries were declared grievous in nature and the complainant being a BAMS Doctor had manipulated the medical evidence with the connivance of other Doctors in his favour. The complainant is hale and hearty and is able to perform his duties in a normal manner. He is walking without any assistance. In the alternative, he submits that the appellant, who is over 60 years of age, has undergone an actual sentence of 07 years, 10 months & 12 days and has not availed any concession of parole or furlough, therefore, the sentence of the appellant be reduced to the period already undergone by him.

7. Learned State counsel, however, submits that in view of serious allegations and the manner of attack along with the previous history wherein the appellant had assaulted the complainant on 03 occasions which led to his conviction, no leniency should be shown and there is no illegality in the order of conviction.

8. Learned counsel for the complainant, however, submits that the complainant had suffered serious injuries and even at present, he is not able to perform his duties and has suffered permanent disability of his hands. The conduct of the appellant is such whereby he had repeatedly assaulted the complainant, resulting in total 04 convictions, therefore, the instant order of conviction and the sentence does not warrant any interference in appeal. He also submits that the complainant had earlier gone to Guru Nanak Dev University & Hospital, Amritsar from where he was referred to Amandeep Hospital (private hospital) due to non-availability of neurosurgeon. Therefore, the delay in conducting the medical examination is fully explained.

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9. Heard.

10. It is manifest that the occurrence had taken place due to altercation between the appellant and the complainant on account of encroachment as they were next door neighbours. The appellant along with other accused is stated to have caused injuries on the person of the victim/complainant with datar. There is no doubt that the ocular version is supported by the medical evidence. The complainant has indeed suffered several injuries on his person which included multiple fractures. The complainant in his testimony as PW-1 had reiterated the version in the FIR and he was cross-examined at length but there was no material contradiction. His version had been corroborated by PW-2 Smt. Manisha (wife of the complainant) and PW-3 Jatin Sareen, who are the eye-witnesses.

11. PW-2 Manisha had witnessed the attack on the complainant and had stated that the complainant was taken to Guru Nanak Dev University & Hospital, Amritsar along with one passer-by, namely, Jatin Sareen (who was examined as PW-3) along with other police officials.

12. PW-3 Jatin Sareen had also stated that he had witnessed the attack on the complainant and had also named other accused including the son and brother of the appellant, who were later declared as proclaimed offender. He had also identified the appellant in Court.

13. The injuries were duly reflected in the MLR which was proved by PW-5 Dr. Shekhar Chumber, who had medico-legally examined the complainant and found 34 injuries on his person out of which 27 injuries were declared grievous to life.

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14. PW-4 Dr. Ravi Kumar Mahajan, the Head of the Department of Plastic Surgery, had deposed that he was heading the team which had operated upon the complainant.

15. PW-8 Dr. Punil Jamwal, Junior Resident, Surgery Department, Guru Nanak Dev University & Hospital, had stated that the condition of the complainant was serious and critical. He further deposed that the injured was given first aid to control the bleeding of his head, hands and other parts. He was administered local anaesthesia and wounds were stitched.

16. PW-10 Dr. Rabinder Singh Waan, Critical Care Specialist and Anaesthesiologist, Amandeep Hospital had deposed that he had administered anaesthesia to the complainant and testified to the seriousness of the condition of the complainant.

17. PW-12 Dr. Monica Mehra, Radiologist, Amandeep Hospital had stated that she had conducted the radiography of the complainant on 12.08.2016, 13.08.2016 & 14.08.2016. She had testified to the seriousness of the condition of the complainant and had stated that he suffered multiple fractures and injuries on his head, hands, wrist arms and other parts of the body.

18. We are, therefore, of the considered view that the prosecution case against the appellant has been duly established and the conviction under Sections 307, 326, 325, 324, 323, 379-B(2), 506 & 341 IPC is maintained and upheld.

19. Insofar as to what should be the adequate sentence in the aforementioned facts and circumstances, we are of the considered view that keeping in mind that the appellant is over 60 years of age, he has undergone an actual sentence of 07 years, 10 months & 16 days and he has not been allowed parole/furlough even for



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a single day, the ends of justice would be met if the sentence is reduced from life imprisonment to a sentence of imprisonment of 12 years.

20. Consequently, the appeal is partly allowed. We direct that the sentence of the appellant be reduced from life imprisonment to the period of 12 years. The impugned order of sentence dated 04.04.2018 is modified to this extent.

Pending application(s) shall stand disposed of accordingly.

(ANUPINDER SINGH GREWAL)
JUDGE

(LAPITA BANERJI)
JUDGE

October 03, 2024
sonia gugnani

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