

2024:PHHC:148600



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102

CRA S-489-SB-2003 (O&M)
Date of Decision: 14.11.2024

Jalaur Singh and others...Appellants

Versus

State of Punjab... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Farhad Kakli, Advocate for
Mr. Gautam Dutt, Advocate for the appellants.

Mr. Arjun Sheoran, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

1. The present appeal has been preferred against the judgment and order dated 13.02.2003 passed by the Court of Additional Sessions Judge, Faridkot, whereby, the appellants have been convicted and sentenced as follows:-

Name of the convicts	Offence	Sentence
Jalaur Singh, Lachhman Singh, Bakhtaur Singh, Dilbag Singh and Mangal Singh	148 IPC	R.I. for six months each and a fine of Rs.500/- each and in default of payment of fine further RI for 15 days each.
Jalaur Singh, Lachhman Singh, Bakhtaur Singh, Dilbag Singh and Mangal Singh	450 IPC	R.I. for five years each and a fine of Rs.1000/- each and in default of payment of fine further RI for 03 months each.

Mangal Singh	326 IPC	R.I. for five years and a fine of Rs.1000/- each and in default of payment of fine further RI for 03 months.
Jalaur Singh, Lachhman Singh, Bakhtaur Singh and Dilbag Singh	326/149 IPC	R.I. for five years each and a fine of Rs.1000/- each and in default of payment of fine further RI for 03 months each.
Bakhtaur Singh and Lachhman Singh	323 IPC	R.I. for six months each and a fine of Rs.500/- each and in default of payment of fine further RI for 15 days each.
Jalaur Singh, Dilbag Singh and Mangal Singh	323/149 IPC	R.I. for six months each and a fine of Rs.500/- each and in default of payment of fine further RI for 15 days each.
Dilbag Singh	323 IPC	R.I. for six months and a fine of Rs.500/- and in default of payment of fine further RI for 15 days each.
Jalaur Singh, Bakhtaur Singh, Lachhman Singh and Mangal Singh	323/149 IPC	R.I. for six months each and a fine of Rs.500/- each and in default of payment of fine further RI for 15 days each.
Jalaur Singh	323 IPC	R.I. for six months and a fine of Rs.500/- each and in default of payment of fine further RI for 15 days.
Lachhman Singh, Bakhtaur Singh, Dilbag Singh and Mangal Singh	323/149 IPC	R.I. for six months and a fine of Rs.500/- each and in default of payment of fine further RI for 15 days.

2. The FIR in the present case was registered on the basis of the statement made by Pal Singh, who alleged that they were five brothers and his brothers, namely, Balvir Singh, Lal Singh and Jit Singh had expired. Malkiat Singh was alive. All the five brothers were joint owners of 14 Kanals of land and all of them were in possession of the same. They had sown narma crop in the said land. A case was pending regarding this land with Bhagwan Singh son of Pal

Singh in the Court at Moga and all the five co-sharers had been spending money equally. On 06.09.2000 Pal Singh and his wife Surjit Kaur went to pick cotton of their share in the land and had an altercation with Jalaur Singh, Dilbag Singh and Mangal Singh all accused. He and his wife were pushed out of the fields by saying that the complainant and Jit Singh had no share in the land and told them that he would take his share as well as share of Jit Singh with the help of police. At about 10.00 a.m., on 06.09.2000 they were sleeping in the courtyard by closing the door and in the meantime, Mangal Singh armed with Gandasa, Jalaur Singh armed with gandasa, Dilbag Singh, Bakhtaur Singh and Balvir Singh armed with dangs, forcibly opened the door and entered his house. Bakhtaur Singh and Lachhman Singh accused gave dang blows on the waist and right arm of his son Jagsir Singh and laid him on the ground. Darbara Singh gave a dang blow to his daughter-in-law Amarjit Kaur due to which she fell down and received injuries on both of her elbows. They also gave kick blows on her right thigh. He came forward raising noise 'Na Maro Na Maro' then Mangal Singh gave a gandasa blow on his head from its sharp side. On hearing noise, Gurmail Singh son of Gurbachan Singh, Majbi, resident of Charik, who was serving in the land of Baba Kalu, came to their house. Then Jalaur Singh gave a gandasa blow from its blunt side on his back. They raised noise 'Marta Marta', then the accused ran away from the spot with their respective weapons, hurling abuses and stating that they have handed

over the possession through police. In the meantime, Gurjit Singh Panch reached the spot who got them admitted in the Hospital by arranging conveyance, where they were medically examined and treated.

3. On the basis of the statement made by Pal Singh complainant, the FIR in the present case was ordered to be registered.

4. After the presentation of the challan all the accused were charge sheeted for the offences punishable under Sections 450, 148, 326, 323, 148 and 149 IPC and they pleaded not guilty and claimed trial.

5. In order to prove the charge, the prosecution examined Pal Singh as PW1. In his deposition, Pal Singh had reiterated the version as mentioned in the FIR. The prosecution further examined Jagsir Singh as PW2, who also supported the statement of PW1 Pal Singh. The prosecution further examined PW3 ASI Atma Singh, who had initially conducted the investigation in the present case. On the date of occurrence, he alongwith other police officials went to the hospital and recorded the statements of injured Pal Singh and made an endorsement and sent the rukka to the police station, on the basis of which the FIR Ex. PC was registered by the police. He arrested the accused in the present case and recovered the weapon of offence from them. On receiving the X ray report on 18.09.2000, the offence was enhanced to 326 IPC.

6. The prosecution further examined PW4 Gursewak Singh, Draftsman, who had prepared scaled sketch Ex.PG on the instructions of Jagsir Singh PW2. The prosecution further examined Dr. Arvinder Gill, Medical Officer as PW5, who had examined Pal Singh, Amarjit Kaur, and Jagsir Singh. The relevant part of her testimony has been reproduced below:-

“On 6.9.2000 at 11.30 P.M. I examined Pal Singh son of Bachan Singh, 70 years male r/o village Charik and found the following injuries on his person :-

1. An incised wound of 3 cm x 1 cm on scalp on left side, 6 cm from anterior hair line and 2 cm from mid-line. Bone-deep, fresh bleeding was present and he complained of vertigo and nausea.

2. Complain of pain in whole of body.

Injury no.1 was kept under observation while injury No.2 was declared simple. Injuries were fresh. Weapon used for injury No.1 was sharp and blunt for injury No.

2. I have brought the original MLR today, the carbon copy of which is EX.PF and pictorial diagram is Ex.PF/1.

On the same day, at 11.45 P.M. I examined Amarjit Kaur w/o Jagsir Singh, 25 years female r/o village Charik and found the following injuries on her person:-

1. An abraided contusion of 3 cm x 2 cm on back of right elbow joint. Complaint of pain on movements Fresh oozing was present.

2. An abrasion of 4 cm x 0.1 cm on back of left fore-arm in middle. Fresh oozing was present.

3. Complain of pain in whole of chest. She alleged to be checked in the chest.

4. Complain of pain and on front of both thighs.

Injury no.1 was kept under observation while rest of the injuries were simple. Injuries were fresh and caused by blunt weapon. I have brought the original MLR today and the photo copy of the same is Ex.PH and the pictorial diagram is Ex.PB/1.

On the same day at 11.50 P.M. I examined Jagsir Singh son of Pal Singh, 27 years male, r/o village Charik and found the following injuries on his person:-

1. A reddish contusion of 10 cm x 5 cm on right lumber region.

2. Reddish contusion of 4 cm x 3 cm on back of right fore-arm in middle.

3. Complain of pain in left leg.

All the injuries were simple, fresh and caused by blunt weapon. I have brought the original MLR today and the photo copy of the same is EX.PJ and the pictorial diagram is EX.PJ/1. As per my opinion Ex.PK on the basis of X-ray conducted by Dr. S.K Jain, I declared the injury No.1 on the person of Pal Singh as grievous”.

7. The prosecution further examined Amarjit Kaur wife of PW6 Jagsir, injured and she also supported the case of the prosecution.

8. After examining the various prosecution witnesses, the statements of all the accused were recorded under Section 313 Cr.P.C.

The accused pleaded innocence and stated that they had not caused

any injury to the complainant and the prosecution witnesses and had been falsely implicated in the present case. The complainant party had sold their share and they were not in possession of the land in question. They had wrongly claimed the ownership of land and got the accused implicated in the present case.

9. After recording the statements of the witnesses, the accused examined Malkiat Singh as DW1, who was member of Panchayat of village Charik. He knew the complainant party as well as the accused party. He stated that the accused had not caused any injury to Pal Singh, Jagsir Singh and Amarjit Kaur. Pal Singh had no possession of the land and the land was attached under Sections 145 and 146 Cr.P.C.

10. Learned counsel for the appellants vehemently argued that the occurrence had taken place at 10.00 p.m. on 06.09.2000 and the statement of the complainant was recorded at 01.00 p.m. on 07.09.2000 and the final report was sent to the Court on 21.09.2000. Thus, there was delay of 24 hours in lodging the FIR in the present case. Still further, it has been alleged by the prosecution that three persons had suffered injuries but the blood stained earth was not lifted from the place of the occurrence. Learned counsel further contended that even as per the case of the prosecution, the accused entered the house of the complainant by breaking the gate and caused injuries. However, no such broken gate was shown in the site plan. Still further, even the medical evidence had not supported the case of the

prosecution. The prosecution examined Dr. Arvinder Gill as PW5, who clearly stated that injury No. 1 on the person of Pal Singh could not have been caused with a curved weapon and the prosecution was liable to be disbelieved by this Court.

11. On the other hand, learned State counsel has vehemently argued that the delay in lodging the FIR was insignificant as the first priority of the complainant side was to provide the medical aid to the injured in the present case. Moreover, simply because the blood stained earth was not lifted from the place of the occurrence cannot be sufficient ground for throwing the case of the prosecution. Still further, the prosecution had led sufficient evidence in the shape of the testimonies of PW1 Pal Singh, PW2 Jagsir Singh and PW6 Amarjit Kaur, who had categorically deposed with regard to the breaking of the gate by the accused as well as with regard to suffering of the injuries at the hand of the accused.

12. I have heard the rival submissions made by learned counsel for the parties and perused the record carefully.

13. The first submission made by learned counsel for the appellants is with regard to delay of 24 hours in lodging the statement of the complainant in the present case. In the present case, the occurrence had taken place at 10 p.m., on 06.09.2000 and Pal Singh had got admitted himself at 11.30 p.m., i.e., after 1.30 hours of the occurrence. However, the statement was recorded at 01.00 p.m., on 07.09.2000 and it can never be stated that the FIR was not registered

by the police with promptitude. Still further, the defence has led much stress on the fact that three persons had suffered injuries and the blood stained earth was not lifted from the spot. In fact, the trial Court has rightly held that the complainant/injured could never be allowed to suffer due to a lapse on the part of the Investigating Officer. Still further, the trial Court has rightly observed that the three injured of the case, i.e., PW1 Pal Singh, PW2 Jagsir Singh and PW6 Amarjit Kaur had been examined by the prosecution and they had given vivid description of causing injuries to them. They had assigned specific roles to all the appellants in the present case and their testimonies were duly corroborated by the statement of Dr. Arvinder Gill, PW5. The injury No. 1 on the person of Pal Singh was caused by a Gandasa and it was clearly possible with the use of a Gandasa. Even otherwise, I have carefully perused the findings recorded by the trial Court and the findings are based on correct appreciation of evidence and law. The impugned judgment does not suffer from any illegality or irregularity and it is liable to be upheld by this Court.

14. Now adverting to the order on quantum of sentence, vide the said order, the appellants were convicted under the various provisions of Indian Penal Code and the maximum sentence of five years was imposed on all the appellants. However, during the pendency of the present appeal, Jalaur Singh, appellant No. 1 has already died. Still further, this Court cannot loss sight of the fact that the appellants are facing the prosecution for the last more than 24

years as the FIR in the present case was registered on 07.09.2000. Even at the time of occurrence, all the appellants were young labourers and the occurrence had taken place at the spur of the moment. Still further, both the sides were residents of village and were rustic villagers. Still further, as per the custody certificates Dilbag Singh, Mangal Singh and Lachaman Singh have undergone 01 month and 12 days of actual sentence and Bakhtaur Singh has undergone 01 month and 16 days of actual sentence.

15. Still further, the sentence imposed on the appellants was suspended by this Court on 10.03.2003 and in the last more than 21 years, the appellants have not misused the concession of bail in any manner. Even, they were never involved in any other criminal activity.

16. Consequently, the sentence imposed on the appellants is reduced to the period already undergone by them. However, the amount of fine is enhanced to Rs. 15,000/- each.

17. With the above modifications, the appeal is partly allowed and the impugned judgment of conviction is upheld, whereas the order of sentence is modified to the extent that the sentence imposed on the present appellants is reduced to the period already undergone by them. However, the amount of fine is enhanced to Rs. 15,000/- each. The amount of fine shall be deposited with the trial Court/CJM/Duty Magistrate within a period of 03 months, failing which, the present appeal shall be deemed to be dismissed.

18. After the deposit of the amount of fine, the concerned Court shall issue notice to all the three injured (to the legal heirs of injured, in case any injured had expired) and the amount of fine shall be disbursed to the all three injured in equal shares against receipt and after proper identification as compensation.
19. All pending applications, if any, are disposed off, accordingly.
20. The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.
21. Records of the Court below be sent back.

14.11.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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