



CRA-S-3399-2019 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-3399-2019 (O&M)
Date of decision:11.02.2025

Brijpal Singh & another ... Appellants

Vs.

Anpal & another ... Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH.
HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Vishal R. Lamba, Advocate for the appellants.
Ms. Shubhra Singh, Additional Advocate General, Haryana.

...

SUKHVINDER KAUR, J.

1. The present appeal has been filed by the accused/appellants, namely, Brijpal Singh and Yashveer against the verdict of conviction and order of sentence dated 05.10.2019 passed by the Additional Sessions Judge, Bhiwani, whereby the appellants were convicted and sentenced as follows:

Under Section	Sentence	Fine	In default
307 IPC	RI for ten years each	Rs.50,000/-	SI six months each
506 IPC	RI for two years each		

Both the sentences were ordered to run concurrently and the period of detention already undergone by the convicts during trial was to be set off from the substantive sentence awarded to them.

2. The factual scenario as unfolded by the prosecution is that



complainant Anpal filed a complaint dated 08.11.2013 in the Court of learned Illaqa Magistrate alleging that on 26.07.2013 at about 7:00 P.M., elder son of complainant, namely, Pankaj had gone to fetch water in the pot. Accused Yashpal @ Joni broke the said pot with brick, due to which altercation took place between his son Pankaj and accused Yashpal. Thereafter, son of complainant came back to his house. On the next day i.e. on 27.07.2013 at about 8:30/9:00 A.M., Pankaj son of complainant and brother of complainant, namely, Virender had taken the buffaloes to the village pond. When they got late, complainant went to the pond looking for them. On reaching near the pond, complainant found that accused Brijpal and his son Yashveer were coming from the side of the pond. Yashveer abused the complainant upon which the complainant slapped him. Thereafter, accused Yashveer and Brijpal left while abusing him and threatened him with dire consequences. His son and brother were bathing the buffaloes in the pond. Thereafter, the complainant, his son Pankaj and brother Virender started towards their house from the pond. When they reached in front of the house of the accused Brijpal, accused Yashveer attacked the complainant and hit him with brick towards left side of his head. Accused Brijpal gave a brick blow on the forehead of complainant due to which he fell down. Accused Pardeep tried to give a *lathi* blow to the complainant's brother Virender, who dodged the blow and snatched the *lathi* from accused Pardeep. The complainant, his son Pankaj and brother Virender also caused injuries to accused Brijpal, Yashveer and Pardeep in their private defence. Upon seeing them fighting, Kamla, wife of accused



Brijpal Singh and daughters of Brijpal Singh, namely, Manoj and Preeti, son Yashpal @ Joni, who were standing at the terrace of the house, started pelting stones upon the complainant, his son and brother. Some bricks also hit the accused persons, namely, Brijpal Singh, Yashveer and Pardeep. Thereafter, Ram Kumar and Narinder belonging to the complainant's family, came at the spot and on seeing them, accused persons ran away.

3. The complainant was taken to CHC, Kairu by his son and brother from where he was referred to GH, Bhiwani and thereafter, he was referred to PGIMS, Rohtak, where CT scan and ultrasound was conducted. Due to non-availability of specialist Doctor and considering the condition of the complainant, he was referred to Super Speciality Hospital and the complainant was taken to Paras Hospital, Gurgaon, where surgery was performed upon his head. The nature of injuries sustained by the complainant was such that if he had not been provided immediate medical treatment, he would have died. He remained admitted at Paras Hospital, Gurgaon for about 7 days and was discharged on 02.08.2013. It was also alleged that on 27.07.2013, ASI Bansidhar got his signatures on some blank papers and thereafter, police conniving with the accused party implicated the complainant, his wife and son in a false case i.e. FIR No.292 dated 27.07.2013 under Sections 323/452 read with Section 34 IPC at Police Station Tosham.

4. In order to prove the allegations, the complainant led preliminary evidence and thereafter, all the accused persons were ordered to be summoned to face trial under Sections 147/148/323/325/307 and 506



IPC. Thereafter, learned Illaqa Magistrate committed the case to the Court of Sessions for trial.

5. After finding a prima facie case against the accused, they were charge sheeted for commission of offences punishable under Sections 148, 323/149, 325/149, 307/149 and 506/149 IPC to which they pleaded not guilty and claimed trial.

6. In order to prove its case, prosecution examined as many as 7 witnesses.

PW1 Anpal complainant reiterated on oath all the allegations as levelled in the complaint.

PW2 Narender Singh and PW3 Manjeet @ Pankaj, the eye witnesses to the occurrence, also corroborated the version of PW1 Anpal and gave eye witness account of the entire occurrence.

PW4 Rakesh Bidlan, MRT, PGIMS, Rohtak brought the bed head ticket Ex.PW4/A pertaining to patient Anpal.

PW5 Dr. Shaweta Sharma, MAX Hospital, who conducted x-ray and NCCT head on person of Anpal, proved her report Ex.PW5/A, x-ray films Ex.PW5/B to Ex.PW5/G and CT scan film as Ex.PW5/H.

PW6 Dr. Keshav Solanki, who medico legally examined the complainant Anpal, proved on record his MLR Ex.PW6/A.

PW7 Dr. Amit Srivastava, who had treated complainant Anpal, proved his discharge summary as Ex.PW7/B and deposed that if the patient had not been operated in time then he might have lost his life.

7. After completion of the prosecution evidence, statements of



accused under Section 313 Cr.P.C. were recorded. Accused pleaded innocence and claimed false implication. They alleged that the present case was a counter-blast to FIR No.292 dated 27.07.2013 under Sections 323/452/34 IPC, at Police Station Tosham which was registered against the complainant party.

8. In defence evidence, accused persons tendered into evidence documents Ex.DA to Ex.DE. Ex.DA is the copy of final report filed by the Investigating Agency in aforesaid FIR No.292 dated 27.07.2013, Ex.DB FIR bearing No.292 dated 27.07.2013 which was got registered on the statement of Brijpal, Ex.DC copy of charge sheet dated 22.04.2014 vide which charges were framed against the present complainant Anpal, Manjeet @ Pankaj and Rajbala under Sections 323/452/34 IPC, Ex.DD copy of order dated 30.08.2019 passed in case titled 'State Vs. Anpal & others', Ex.DE copies of testimonies of witnesses PW1 Brijpal, PW2 Yashveer, PW3 ASI Vidhyadhar, PW4 ASI Bansidhar, PW5 Preeti, PW6 ESI Surajmal, PW7 Pardeep, PW8 Dr. Krishan Kumar recorded in the challan case arising out of the aforesaid FIR.

9. Vide judgment dated 05.10.2019, accused Pardeep, Yashpal, Kamlesh, Manoj and Preeti were acquitted of the offences punishable under Sections 148/323/325/307/506/149 IPC whereas accused Yashveer and Brijpal were convicted of the offences punishable under Sections 307/506 IPC and sentenced accordingly. Hence, the present appeal has been filed by accused Brijpal and Yashveer against the verdict of conviction and sentence.

10. Learned counsel for the appellants has contended that the trial



Court has taken a perverse view while appreciating the evidence in this case, which was led in private complaint filed after 3 months and 10 days of the occurrence. Earlier the police did not proceed to register FIR as per version of the complainant, since the matter was found to be suspicious. He has further contended that on the statement of accused/appellant Yashveer, case FIR No.292 dated 27.07.2013 under Sections 323/452/34 IPC was registered against complainant Anpal as well as Manjeet son of Anpal and Raj Bala, wife of Anpal. Thus, the version coming forth from statement of Yashpal first in point of time, has been wrongly ignored by the trial Court. He argued that Yashveer and Brijpal acted in self defence as Anpal along with his son and wife caused injuries to them as well as Pardeep, after trespassing into their house. He urged that while determining the aggressor party, a wrong criteria was adopted by the trial Court and the trial Court, wrongly found the appellants to be the aggressors only on the basis of seriousness of injuries suffered by Anpal. The trial Court ignored the injuries suffered by accused, namely, Brijpal, Yashveer and Pardeep for which they were medico legally examined at CHC, Kairu. Furthermore, merely because the injury on the person of Anpal was declared as dangerous to life would not falsify the defence version which stands duly proved from the defence evidence as well as investigation conducted by the Investigating Officer, PW4 Bansidhar. He submitted that the present complaint was a counter-blast to the aforesaid FIR which had been registered against the complainant party. The trial Court has faltered in convicting the appellants for offence under Section 307 IPC in the absence of any medical evidence to establish that injuries suffered by Anpal



were result of brick bat. The dimension of both the injuries being similar would rule out the possibility of suffering the same with brick bat. Rather, the medical evidence supports the defence plea that Anpal received injury at the hands of Brijpal Singh after he snatched *danda* from his hand. He further argued that the entire evidence has been jumbled up by the trial Court, while deciding both the cases, by relying upon the evidence of one case in the other, which is impermissible in law and prayed that the judgment of conviction and sentence passed against the accused/appellants be set aside and they be acquitted of the charges framed against them.

11. We have heard learned counsel for the parties and have thoroughly perused the record of the case, available with the counsel.

12. As per version in the complaint, complainant Anpal met accused Brijpal and Yashveer on his way to village pond, where his son Manjeet and brother Virender had taken the buffaloes for bathing and altercation took place between him, Yashveer and Brijpal and consequently, the complainant slapped Yashveer upon which Yashveer and Brijpal threatened him with dire consequences. The version set forth in the complaint has been testified by complainant in the Court, while appearing as PW1 which has been further fortified with the testimony of his son PW3 Manjeet @ Pankaj.

13. On the other hand, as per the defence version, as stated in the final report Ex.DA, complainant Anpal along with his sons Sumer and Manjeet assaulted the son of Brijpal namely, Yashveer at about 8:30 A.M. on 27.07.2013 at the village pond. Accused Brijpal rescued his son from



complainant and his two sons and in this context in the defence evidence, accused have produced on record testimonies of PW1 Brijpal and PW2 Yashveer so recorded in the challan case.

14. No independent witness was examined by the accused persons in the present case in their defence, with regard to the alleged altercation at the village pond and they have just placed reliance upon testimonies of PW1 Brijpal and PW2 Yashveer so recorded in the challan case. But it has been stated by complainant Anpal in his examination-in-chief that accused Brijpal and Yashveer were abusing his son and brother upon which he slapped Yashveer. Thus, as per version of both complainant and accused Yashveer and Brijpal, some altercation took place at village pond on 27.07.2013 at about 8:30 A.M. between Anpal, Pankaj and Virender.

15. As per Ex.DE statement of PW2 Yashveer recorded in the challan case, the house of accused came in between the village pond and house of complainant. The trial Court has rightly observed that the version of complainant is more probable and believable that while complainant along with his son Pankaj and Virender were going back to their house from village pond, then accused Yashveer and Brijpal came out of their house and attacked the complainant with bricks. This fact has also been corroborated by testimony of PW2 Narender Singh who stated that on 27.07.2013 at about 9:00/9:30 AM when he along with his father Ram Kumar, was going towards the bus stand of their village and when they reached near the house of Brijpal, they saw Anpal lying on the ground in injured condition and Manjeet son of Anpal and Virender S/o of Bhagwan Singh were standing



near him. Accused Yashveer, Brijpal and Pardeep were also standing there and on seeing them, they entered their house.

16. For proving the defence version that complainant Anpal, his wife Rajbala and sons Manjeet @ Pankaj and Sumer after the incident at village pond, criminally trespassed into the house of accused with *lathis* and *dandas* and caused injuries to wife of Brijpal and daughters, namely, Preeti and Manoj and son Yashpal, have relied upon testimony of PW5 Preeti and PW7 Pardeep produced on record as Ex.DE recorded in the challan case. The trial Court has rightly observed that much reliance cannot be placed upon the testimony of Preeti, she being interested witness and Pardeep being indicted as one of the accused in the present case. The trial Court has further rightly observed that incident dated 27.07.2013 took place outside the house of Brijpal where Brijpal and his son Yashveer hit the complainant with bricks on his head. The presence of Virender who, though given up by the complainant, stands established from cross-examination of PW2 Narender, when a suggestion was given to the said witness with regard to his recollection as to whether Manjeet and Virender who were standing near Anpal had also sustained injuries or not. A suggestion was given by PW3 Manjeet @ Pankaj on behalf of the accused that Brijpal and Yashveer did not have any other weapon except the bricks in their hands whereas accused Pardeep was having a *danda* in his hand which also strengthens the version of the complainant.

17. It is the specific case of the complainant that accused Yashveer attacked complainant Anpal and hit him with the brick on his head.



Thereafter, accused Brijpal gave a brick blow on forehead of complainant due to which complainant Anpal fell down. It has been contended by learned counsel for the appellants that all the injuries suffered by complainant Anpal were on account of private defence exercised by accused Brijpal and Yashveer and as such, no offence could be attributed on them on account of the force exercised by them to protect their persons, but this contention raised by learned counsel for the appellants seems to be without any substance. Perusal of the medico legal x-ray reports of Pardeep, Yashveer and Brijpal so annexed with the final report Ex.DA reveal, that no fracture was seen on the body of any of the accused persons and there were only complaints of tenderness, redness and swelling on their bodies.

18. On the other hand, as per MLR Ex.PW6/A of Anpal, proved on record by PW6 Dr. Keshav Solanki, who medico legally examined complainant Anpal on 27.07.2013, the following injuries were found on his person:

“1. Lacerated wound of size 3x.5 cm over left forehead with fresh bleeding.

2. Lacerated wound of size 3x.5 cm over right cheek with fresh bleeding.

3. Lacerated wound of size 4x.5 cm over right parietal region with fresh bleeding.”

19. PW4 Rakesh Bidlan, MRT, PGIMS, Rohtak produced on record short stay file bearing CR No.164910 of complainant Anpal as Ex.PW4/A. PW5 Dr. Shaweta Sharma conducted x-ray and NCCT head on the person of patient Anpal and proved on record her report Ex.PW5/A. The



x-ray films Ex.PW5/B to Ex.PW5/G and CT scan film Ex.PW5/H. PW7 Dr. Amit Srivastava, Paras Hospital, Gurgaon deposed that on 27.07.2013, he conducted surgery on the complainant and proved his report Ex.PW7/B.

20. Thus, from the aforesaid medical evidence, it transpires that the injuries caused on the person of complainant by accused persons were much serious in nature than the alleged injuries suffered by accused Pardeep, Yashveer and Brijpal. So, this contention of the appellants that they have acted in self defence, is liable to be discarded.

21. PW4 ASI Bansidhar, the Investigating Officer, in the challan case has stated in his cross-examination that after reaching PGIMS, Rohtak, he recorded statement of Anpal at 4:30 P.M. on 27.07.2013 and thereafter, he went to GH, Bhiwani and recorded statement of Brijpal at 6:30 P.M. He conceded that the aforesaid statement of complainant Anpal recorded by him was not annexed with the challan on the file. He further stated that he was having the knowledge that Anpal was got admitted at Paras Hospital, but despite that, he never visited Paras Hospital as the investigation regarding allegations made by Anpal was being conducted by DSP, Siwani. So, it appears that one sided investigation was conducted and police never bothered to take any action on statement of Anpal with regard to the injuries sustained by him on 27.07.2013 at the hands of the accused persons. The Investigation was not conducted in a fair manner to come to the conclusion regarding the fact as to who was the aggressor and who had acted in self defence. From the evidence on record, it is made out that it was accused Brij Pal and Yashveer, who were the aggressors. From the testimony of



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prosecution witnesses, it is proved that the complainant suffered brick blows one after the other at the hands of Yashveer and Brijpal on 27.07.2013. He was taken to CHC, Kairu and then referred to GH, Bhiwani, where his medico legal examination was conducted. PW6 Dr. Keshav Solanki has proved MLR of complainant Ex.PW6/A regarding injuries suffered by him at the hands of accused persons. From statement of PW4 Rakesh Bidlan, MRT, PGIMS, Rohtak, it has been proved that he (complainant) was referred to PGIMS, Rohtak. PW5 Dr. Shaweta Sharma has proved the reports regarding x-ray and NCCT head conducted on person of Anpal and gave her report Ex.PW5/A with the following observations:-

“Extra-cranial hyper-density with CT No. of blood of approx size 11.5x1.3x6 cm seen in right fronto temporal occipital region extending into the tantrum and intuhemispheric fissure.

- *Mid line shift of 4 mm seen towards left side.*
- *B/L carebellar hemispheres*
- *B/L ventrides and basal cisterns”*

22. Thereafter, the complainant left the PGIMS, Rohtak and case was recorded as 'LAMA' (left against medical advise). The trial Court has rightly observed that it seems that injuries were so grave in nature that even against the medical advise by the concerned doctor at PGIMS, Rohtak, in order to save his life the complainant got himself admitted at Paras Hospital, Gurgaon and got himself operated by PW7 Dr. Amit Srivastava.

23. PW7 Dr. Amit Srivastava tendered in his statement his affidavit Ex.PW7/A deposing that *“the complainant Anpal was admitted under him through emergency in the department of neuro surgery in Paras Hospital on*



27.7.2013 at 7.36 P.M. as a case of moderate head injury as Right parieto-occipital EDH with linear fracture right parieto occipital bone with fracture frontal bone and cribiform plate with multiple hemorrhagic contusion bilateral frontal bone. Patient alleged to sustain head injury due to assault on 27.7.2013 at 8.30 A.M. when quarrel broke out between his son and neighbours son followed by assault on head with bricks followed by transient loss of consciousness, altered and vomiting of blood. Primary treatment was given at PGI. Rohtak where NCCT Head was done with revealed right parieto-occipital EDH with mass effect with multiple fractures of frontal bone and cribriform plate MLC was done at PGI, Rohtak. MLC No. KS/275/2013. Neurosurgical point of view patient was taken up for right prieto-occipital craniotomy and evacuation of EDH and cranioplasty with mini plate and screw done under GA on 27.7.2013 by Dr. Amit Srivastava. Post operatively patient was managed with IV antibiotics analgesics. antacids and other supportive measures. Repeat NCCT Head was done on 28.7.2013 which revealed evidence of craniotomy with evacuation of epidural bleed with drainage tube seen in situ with no other interval changes notes. The nature of injury was dangerous to life.”

24. Thus, statement of PW7 Dr. Amit Srivastava along with other evidence on record is sufficient to prove that both the accused persons hit on the head of complainant with bricks one after the other. They did such act with the intention and under such circumstances to give a bodily injury as they knew it to be likely to cause death or that such a bodily injury in the ordinary course of nature would cause death, while both the accused had no



excuse for incurring the risk of causing such death or injury. Thus, accused/appellants Brijpal and Yashveer have been rightly held guilty by the trial Court for commission of offence under Section 307 IPC.

25. The trial Court has further rightly held that from statement of PW1 complainant, it also stands proved that accused Brijpal and Yashveer earlier criminally intimidated him with dire consequences and within a short span of few minutes or so, they caused injuries to the complainant with bricks to endanger his life and, therefore, they have been rightly held guilty for commission of offence under Section 506 IPC.

26. No other glaring discrepancies have been pointed out by learned counsel for the appellants which are material and go to the root of the prosecution case so as to cast a doubt thereon.

27. For the reasons recorded above, we find no ground to interfere so far as conviction of the appellants under Sections 307 and 506 IPC is concerned. Accordingly, their conviction is upheld. However, coming to the sentence part, it may be noticed that the occurrence took place in 2013. The appellants were convicted and sentenced vide judgment and order dated 05.10.2019 passed by the trial Court. Thus, the appellants have been undergoing agony of trial for the last more than 11 years. Thus, keeping in view the facts and circumstances of the case, in our opinion, the ends of justice would be fully met if the sentence awarded to the applicants is ordered to be one already undergone by them. Ordered accordingly. The amount of fine so imposed, is also reduced to Rs.25,000/- each.

28. With aforesaid modification in the sentence part, the present



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appeal is dismissed while affirming the judgment of conviction passed by the learned trial Court.

29. Pending application(s), if any, also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

(SUDHIR SINGH)
JUDGE

11.02.2025

harjeet

1. Whether speaking/reasoned? Yes/No
2. Whether reportable? Yes/No