208 (01 case)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-2367-SB-2008 (O&M)
Date of Decision:20.04.2026

Bhag Singh and Ors. …Appellants

Vs.

State of Haryana …Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present: Mr. Shashikant Gupta, Advocate with
Mr. Devender Arya, Advocate
for the appellants No.1,2,4 & 5.

Mr. Rajiv Sidhu, Sr.DAG, Haryana.

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N.S.Shekhawat J.

1. The appellants have filed the present appeal against the impugned judgment of conviction dated 24.11.2008 and order of sentence dated 25.11.2008, passed by the Court of Additional Sessions Judge, Yamuna Nagar at Jagadhari, whereby the appellants were ordered to be convicted for the offences punishable under Sections 148,323 r/w Section 149 of IPC, 325 r/w Section 149 of IPC and 307 r/w Section 149 of IPC and were sentenced as under:-

Under Section 148 IPC	R.I for a period of two years each.
Under Section 323 r/w Section 149 IPC	R.I for a period of one year each.
Under Section 325 r/w Section 149 IPC	R.I for a period of two years each and to pay a fine of Rs.2000 each, in default of payment of fine, to further undergo RI for a period of 02 months each.
Under Section 307 r/w Section 149 IPC	R.I for a period of four years each and to pay a fine of Rs.3500 each, in default of payment of fine, to further undergo

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	RI for a period of 04 months each.

2. During the pendency of the present appeal, appellant no.3 namely Des Raj had expired. Consequently, the appeal qua him stands abated and is ordered to be dismissed.

3. The brief facts of the present case are that on the night of 13.10.2006 on receipt of a medical rukka regarding admission of injured Karam Singh and Ram Pal in Gaba Hospital, Yamuna Nagar. PW10 HC Jai Kishan reached Gaba Hospital, Yamuna Nagar and sought the opinion of the doctor regarding the fitness of the injured to make the statement by moving an application Ex. P16. The doctor vide opinion Ex.P17 declared both the injured unfit to make the statement. 14.10.2006, S.I. Pale Ram, the then SHO of Police Station Sadar, Jagadhri reached Gaba Hospital, Yamuna Nagar and by moving an application Ex.P12 he sought the opinion of the doctor regarding their fitness to make the statement. This time also both the injured were declared unfit to make the statement. Complainant, Dharampal (PW9), brother of injured, met him and got recorded his statement Ex.P23 to the effect that he is agriculturist by profession. They are four brothers. His eldest brother Karam Singh is aged 44 years followed by Mam Chand and then Ram Pal aged 40 years. They are living jointly in *dera* located in the fields within the revenue estate of Village Mahmoodpur. Land of Des Raj of Village Batheri is abutting to their land. About 2/3 years ago, Des Raj etc. had cut away the government trees standing nearby the road and against that his brother Karam Singh had moved a complaint to the forest department and the money fetched from those trees is lying deposited in the government treasury. Due to that they were having

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grudge against them. Yesterday on 13.10.2006, at about 5 PM his brothers Ram Kumar and Karam Singh were spreading the parali on the road. In the meantime, Mohinder, Rajbir, Bhag Singh, Des Raj, Rinku, Sonu, Lakhi. Naranjan Singh residents of village Batheri and sons of Mangi and his servant came on tractor armed with lathis, dandas, gandasis and kulhari in connivance with each other and asked them as to why they were putting the parali on the road and they will teach them a lesson for making complaint to the forest department against them. Thereafter, they all while making lalkara opened the attack upon his brothers in order to kill them. Rajbir gave a gandasi blow from reverse side on the head of this brother Karam Singh. Bhag Singh also gave a kulhari blow from reverse side on the head of Karam Singh. Mohinder gave a kulhari blow from reverse side on the head of Ram Pal. Rinku gave gandasi blow on the head of Ram Pal. They both fell down on the ground. The remaining assailants also gave them lathis/dandas blow. In the meantime his sister-in-law (Bhabhi) Chandrawati reached there after hearing the noise. She was also caused injuries by the assailants with lathis. On hearing the noise, he and Ram Pal son of Sheo Ram reached at the spot and all the assailants fled away from the spot alongwith their respective weapons. Narajan Singh was having his motor cycle. All the assailants had opened the attack upon his brothers in connivance with each other in order to kill his brothers. On his statement Ex. P23, the present case was registered vide FIR Ex. P-24 and the investigation was put into action.

4. During investigation, the blood stained clothes of the injured were taken into possession and the rough site plan was prepared. The statements of the injured were also recorded by the police.

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5. After necessary investigation, the final report under Section 173 Cr.P.C was presented against the appellants before the Court of Area Magistrate.

6. Since, the offence was triable by the Court of Sessions, the case was committed to the Court of Sessions Judge, Yamuna Nagar.

7. After perusing the challan and other accompanying documents, the Court found that a prima facie case under Sections 148,323 r/w Section 149 of IPC, 325 r/w Section 149 of IPC and 307 r/w Section 149 of IPC was made out against the appellants and they were charge-sheeted accordingly. However, they pleaded not guilty and claimed to be tried by the Trial Court.

8. In order to prove the charge against the appellants, the prosecution examined 10 witnesses.

9. In the present case, Dr. Jagir Mal, Senior Medical Officer was examined as PW-1, who had medico-legally examined Chandra Wati, injured and found the following injuries on her person:-

> *1.One bruise injury to left eye and face of the size 3.5 x 3 cm of dark bluish colour. There was tenderness. The patient was advised X-Ray of face and left orbit.*
> *2. There was one soft and defused swelling on the scalp on the left side of size 3 x 3 cm. There was tenderness and advised X-ray of scalp AP and lateral.*
> *3. There was one bruise injury to left hip of the size 8 X 3 cm. There was tenderness. The colour was bluish.*
> *4. There was bruise injury to both thigh on the back side of the size 7 x 3 Cm and 6 x 0.25 Cm. Colour was bluish and there was tenderness.*
> *5. The patient was complaining the both ache but no injury mark was visible.*

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10. Sushil Kumar, Patwari, Halqua Chagnoli examined as PW-2, who prepared the scaled site plan Ex.P-4. Dr. Vandana, Medical Officer, Gaba Hospital, Yamuna Nagar examined as PW-3, who had medico-legally examined Karam Singh and Ram Pal and found the following injuries on them:-

Injuries found on the person of injured Karam Singh

1.. *Lacerated wound of the size 4 x 1/4 inch over right parietal area with depressed skull. Fresh blood was oozing out.*

2. Lacerated wound over frontal area of size ½ inch x ¼ inch. Fresh blood was oozing out.

3. Multiple abrasions all over body of different sizes and shapes.

4. Bruising of right eye. Advised CT scan head. The report of CT Scan revealed right frontal linear fracture right frontal hemorrhage contusion, right pariental extra dural bleed.

Injuries found on the person of injured Ram Pal

1. Lacerated wound over right side parietal region of the size 2 ½ inch X ¼ inch with oozing blood.

2. A lacerated wound over left pariental region size 3 inch x 1/4 inch with oozing blood.

3. Multiple abrasions over back and bilateral upper and lower limbs.

She further proved the medico legal reports of both the injured Ex. P6 and Ex. P7 besides their case summaries, Ex. P5 and Ex. P9 respectively. She further proved the X-ray report of Ram Pal Ex. P8.

ASI Ramesh Chand, examined as PW-4, who had registered FIR Ex.P-24. The prosecution further examined S.I Manohar Lal as PW-5, who had investigated the present case. Chandrawati, injured examined as PW-6, whereas, PW-7 Karam Singh, another injured and both injured had supported the case of the prosecution. S.I Pale Ram examined as PW-8, who was the initial I.O of the

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present case. Dharampal complainant examined as PW-9 and had supported the prosecution version. H.C Jai Kishan remained as I.O in the present case and had narrated the instances of the investigation.

11. After the closure of the prosecution evidence, the statement of appellants were recorded under Section 313 Cr.P.C and all the incriminating evidence was put to them, to which they pleaded that they had been falsely involved in the present case.

12. In their defence evidence, appellants have examined as many as six witnesses. Dr. Rajiv Kapoor who has proved the X-ray report with respect to the injuries to claimant Bhag Singh appeared as DW-1 and has proved the X-ray report Ex. D-5. Dr. Mahavir Goel, who had treated patient Mahinder in the year 1993 appeared as DW-2 and proved the treatment record. Dr. Sandeep Gupta while appearing as DW-3 has proved the disability certificate Ex.D-9 of accused Rajbir Singh. DW-4 HC Daya Nand has proved the DDR Ex. D10. Dr. Manish, Senior Resident, Department of Orthopedic, Govt. Medical College, Sector 32, Chandigarh while appearing as DW-5 has proved the Disability Certificate Ex. D-11 of accused Mohinder Singh. Dr. Rajiv Airon while appearing as DW-6 has proved the medico legal report of accused Bhag Singh Ex.D-12.Besides that the accused have tendered certain documents evidence in their defence.

13. At the very outset, learned counsel appearing on behalf of the appellants submits that he does not wish to challenge the impugned judgment of conviction and some leniency may be shown by this Court, while awarding the sentence to them. Even though, learned counsel for the appellants has not challenged the judgment of conviction, still this Court has considered the case

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on merits.

14. I have heard the learned counsel for the parties and with their able assistance, I have gone through the trial Court record carefully

15. From the above referred discussion, it is apparent that to prove the case of the prosecution, the prosecution had examined four witnesses. The prosecution had examined PW-6 Chandrawati, injured witness, who had suffered five injuries on her person. Her injuries were duly proved on record by PW-1 Dr.Jagir Mal, Senior Medical Officer. Further, the prosecution had also examined PW-7 Karam Singh, who had fully supported the prosecution version. Even, injuries suffered by Karam Singh were proved by Dr. Vandana, PW-3. Still further, PW-9, Dharam Pal, complainant had also supported the case of the prosecution.

16. On the other hand I also agree with the findings recorded by the Trial Court that the defence version in the present case was highly improbable and unbelievable. Still further, I also gone through the Trial Court record and agree with the findings recorded by the Trial Court that the present appellants had committed the offence punishable under Sections 148,323 r/w Section 149 of IPC, 325 r/w Section 149 of IPC and 307 r/w Section 149 of IPC and they have been rightly convicted by the Trial Court.

17. Now, adverting to the order of sentence in the present case, this Court cannot lost sight of the fact that the FIR in the present case was registered on 14.10.2006 and the appellants are facing the agony of trial/appeal for the last more than 19 years. Even, all the appellants are first offenders and were never involved in any criminal activity. Apart from that, the sentence imposed on the appellants was ordered to be suspended by this Court on 29.07.2009 and in the

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past 16 years, they had maintained good conduct. Consequently, the sentence imposed on appellants is reduced to the period already undergone by them. However, the amount of fine is enhanced to Rs.35,000/-each, which shall be deposited by them with the concerned Chief Judicial Magistrate within a period of six weeks from the date of receipt of certified copy of this order.

18. In case, the total amount of fine Rs.1,40,000/- is not deposited by them as ordered, the present appeal shall be deemed to be dismissed.

19. Out of total amount of fine of Rs.1,40,000/-,an amount of Rs.1,00,000/- shall be paid to Karam Singh, injured, whereas, an amount of Rs.40,000/- shall be paid to Chandarawati, injured in the present case, after receipt and proper identification.

20. With the above modifications, the present appeal is partly allowed and the impugned judgment of conviction is upheld, whereas, the sentence imposed on the appellants is reduced to the period already undergone by them and the amount of fine imposed on them is enhanced to Rs.35,000/-each, which shall be deposited by them with the concerned Chief Judicial Magistrate within a period of six weeks from the date of receipt of certified copy of this order.

21. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeal, in accordance with law.

22. The Trial Court record be sent back.

23. Pending application(s), if any, stand(s), disposed of, accordingly.

(N.S.SHEKHAWAT)
JUDGE

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

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