



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

101

**CRA-S-255-SB-2005 (O&M)
Date of decision : 04.05.2026**

Binder Ram

..... Appellant

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Parambir Singh Ghotra, Legal Aid Counsel
for the appellant.

Mr. Eklavya Darshi, Deputy Advocate General, Punjab

SURYA PARTAP SINGH, J.

The present appeal has been filed by the appellant against the judgment of conviction and order of sentence dated 13.12.2004, passed by the Court of learned Additional Sessions Judge (*Ad hoc*) Patiala, hereinafter being referred to as 'trial Court' only.

2. Briefly stating the facts emerging from record are that one FIR, i.e. the FIR No.31 dated 07.02.2002, was registered at the instance of 'Sukhwinder Singh' for the offence punishable under Sections 307, 392, 323, 324 and 34 of Indian Penal Code, Police Station Patran. In view of abovementioned FIR, the investigation was taken up by the police, and as an outcome of abovesaid investigation, the appellant and his co-accused Shonki



Ram was sent to face trial before the learned trial Court.

3. The appellant participated in the abovementioned trial, which by virtue of impugned judgment culminated into his conviction. Thus, vide order dated 13.12.2004, on the point of quantum of sentence, the appellant was awarded the following sentences:-

Name of convict	Offence under Sections	Sentence
Binder Ram	324 of IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.1000/- and in default thereof to further undergo simple imprisonment for a period of six months.
	323 of IPC	Rigorous imprisonment for a period of six months.
	397 of IPC	Rigorous imprisonment for a period of seven years and to pay a fine of Rs.1000/- and in default thereof to further undergo simple imprisonment for a period of one year.

All the sentences were ordered to run concurrently.

4. Aggrieved of the abovementioned judgment of conviction and order of sentence, the present appeal has been preferred by the appellants.

5. In nut-shell, the facts emerging from record are that the FIR of this case came into being on 07.02.2002 at the instance of 'Sukhwinder Singh', hereinafter being referred to as 'complainant' only. It was stated by the above-named complainant that he was running readymade garments shop of bus-stand Patran, and that on 07.02.2002 at about 07:15 pm, when he was checking the articles of his shop, two persons came to his shop and asked to



show T-shirt. As per complainant, when he was showing the same to the abovementioned persons, they started bargaining. As per complainant, after bargaining, one of the abovementioned persons took out a knife and gave a blow on his stomach, but he was saved because of purse lying in his pocket. According to complainant, to save himself, he grappled with the said person, but suffered injuries on his hands. The complainant further alleged that thereafter the abovesaid person gave another knife blow, which hit on his left shoulder. As per complainant, thereafter he screamed for help and 'Gurmukh Singh' (shopkeeper of the adjoining shop) came at the spot and in the meantime, the abovementioned assailants took away Rs.31,000/- from the cashbox of the shop and fled from the spot. According to complainant, the name of the person who was armed with knife was 'Binder Ram' and the another person was 'Shonki Ram'.

6. It is the case of the prosecution that on the basis of abovementioned statement, formal FIR of this case was lodged and the investigation taken up. As per prosecution, during the course of investigation, the Investigating Officer inspected the spot, prepared rough site plan of the place of occurrence, recorded the statement of witnesses, under Section 161 CrPC, and completed other usual formalities of investigation. Thereafter, the final report under Section 173 of CrPC was filed.

7. To discharge its burden with regard to charge against the appellant, the prosecution in the instant case relied upon documentary as



well as oral evidence. The documents relied upon, and marked with exhibits, by the prosecution were:-

- Ex.PA - FIR of the case
- Ex.PE - Scaled site plan of the place of occurrence
- Ex.PW7/A - Formal affidavit of Ct. Mehal Singh
- Ex.PA/1 - Endorsement regarding recording of statement of injured
- Ex.PH - Site plan of the place of occurrence
- Ex.PD - Sketch of the knife
- Ex.PB - Recovery memo of knife
- Ex.PI - Application with regard to medical examination of injured/complainant Sukhwinder Singh
- Ex.PI/1 - Endorsement of doctor, after medical examination of injured
- Ex.PJ - Personal search memo of accused Shonki Ram
- Ex.PK - Arrest memo of accused Shonki Ram
- Ex.PL - Information regarding arrest of accused Shonki Ram
- Ex.PC/1 - Sweater
- Ex.PC/2 - T-Shirt
- Ex.PE - Scaled map prepared by Draftsman of the place of occurrence
- Ex.PW8/A - Copy of medico-legal report of injured Sukhwinder Singh
- Ex.PW8/B - Pictorial diagram showing the seats of injuries
- Ex.PW8/C - Application filed by ASI Mohan Lal to obtain opinion regarding nature of injuries after X-ray report
- Ex.PW8/D - Application seeking for opinion, regarding nature of injuries
- Ex.PW2/A - Affidavit of HC Gurmeet Singh
- Ex.PW3/A - Affidavit of Ct. Constable Jagir Singh



8. To provide support and corroboration to the above-mentioned documentary evidence, as many as eight witnesses were examined by the prosecution. Those were:-

- PW-1 - Sukhwinder Singh (complainant)
- PW-2 - HC gurmeet Singh
- PW-3 - Ct. Jangir Singh
- PW-4 - Indresh Khanna, Draftsman
- PW-5 - Gurmukh Singh, eye-witness
- PW-6 - ASI Mohan Lal, I.O.
- PW-7 - Ct. Mehar Singh
- PW-8 - Dr. Ranjit Singh, MO

9. Once the prosecution evidence was recorded, the learned trial Court completed the essential formalities as enshrined under Section 313 CrPC. Thereafter, opportunity of defence evidence was afforded to the appellants. In their defence evidence, the appellants examined only one witness, i.e. DW-1 Veer Singh, Sarpanch of the Village.

10. Once the evidence of both the parties was complete, the learned trial Court gave an opportunity to the appellants as well as prosecution to address arguments. Thereafter, a judgment of conviction against the appellant and his co-accused was returned.

11. Heard.

12. It has been contended on behalf of appellant that the impugned judgment of conviction and order of sentence deserve to be set aside, being the outcome of non-application of judicial mind. According to learned



counsel for the appellant, the learned trial Court has failed to appreciate that the necessary ingredients meant for the commission of offence under Sections 324/323/397 of IPC were not established by the prosecution, as per the standard prescribed under the law. As per learned counsel for the appellant, merely, on the basis of conjectures and surmises as well as assumptions and presumptions, the learned trial Court held the appellant guilty.

13. However, during the course of arguments, the learned counsel for the appellant has contended that in the instant appeal, the appellant is not inclined to challenge the finding of conviction recorded by the learned trial Court. The learned counsel for the appellant has categorically contended that at this stage, by virtue of present appeal, the appellant is challenging the order on the quantum of sentence only.

14. It has been further contended by learned counsel for the appellant that the incident had taken place way back in the year 2002. According to learned counsel for the appellant, the appellant is facing the agony of litigation for the last more than 24 years and have, in fact, already suffered more punishment than they deserved. It has further been submitted on behalf of appellant that the offence in question is the first offence committed by the appellant, and that after the offence, related to present case, the appellant has not been prosecuted for any other offence.



15. In addition to above, the learned counsel for the appellant has also argued that in the present case, the appellant has already served a sentence for a period of more than four years and eight months. According to learned counsel for the appellant, in view of above-discussed factors the sentence already undergone by the appellant may be treated to be sufficient.

16. *Per contra*, the learned State Counsel has argued that the appellant has been found guilty for the commission of offence punishable under Sections 324/323/397 of IPC. According to learned State Counsel, the sentence awarded to the appellant, i.e. imprisonment for a period of seven years, is already on lower side, and that the appellant is not entitled for a sentence of imprisonment for a period of less than seven years. As per learned State Counsel, the instant appeal has no merit and deserves dismissal.

17. The record has been perused carefully.

18. Once it is a categorical stand of the appellant that he is not challenging the judgment of conviction, passed by the learned trial Court, it is hereby held that there is no scope for interference or indulgence in the findings recorded by the learned trial Court with regard to conviction of appellants, for the offence under Sections 324/323/397 of IPC. Accordingly, the abovementioned finding is hereby affirmed and qua the judgment of conviction instant appeal is hereby dismissed.



19. As far as the order on quantum of sentence is concerned, in view of the fact that the appellant has already served a sentence for a period of almost four years and nine months against the awarded sentence of seven years, it is hereby held that the appellant is entitled for a lenient view. In view of abovementioned observations, the sentence awarded to the appellant, i.e. imprisonment for a period of seven years, is held to be harsh. Thus, it is hereby held that with regard to quantum of sentence, there is need for interference and indulgence of appellate jurisdiction of this Court.

20. In the light of above observations, if the factual matrix of present case is analyzed, it transpires that following are the points which need consideration: -

- (a) that the incident in question had taken place about 24 years ago;
- (b) that the appellant is facing the agony of protracted trial for the last 24 years; and
- (c) that against the awarded sentence of seven years, the appellant has already served sentence for a period of almost four years and nine months.

21. As a cumulative effect of abovementioned observations, it is hereby held that in the present case the appellant is entitled for a lenient view, and that the sentence, which he has already undergone in the present case, i.e. imprisonment for a period of four years, eight months and twenty five days, is adequate to meet the ends of justice.

22. As a sequel to the aforesaid discussions, the present appeal is hereby *partly allowed*. The judgment of conviction is upheld; but order on the point of quantum of sentence is modified, and the sentence awarded to the appellant is reduced to the period already undergone by him.
23. Pending miscellaneous application(s), if any, stand(s) disposed of, accordingly.

(SURYA PARTAP SINGH)

JUDGE

04.05.2026

Gaurav Thakur

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