
(2010) 11 P&H CK 0210

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal S-1074-SB of 2001

Baljinder Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Nov. 26, 2010

Acts Referred:

- Penal Code, 1860 (IPC) - Section 323, 324, 326, 34

Hon'ble Judges: Tej Pratap Singh Mann, J

Bench: Single Bench

Judgement

T.P.S. Mann, J.

Both the aforementioned appeals are being disposed of by one judgment as they pertain to the same occurrence in which Jagtar Singh and Romesh Kumar had received injuries and have arisen out of the judgment of conviction and order of sentence passed by Additional Sessions Judge, Amritsar on 12.9.2001.

2. The trial Court had convicted Baljinder Singh, Sandeep Singh and Gurshinder Singh Appellants u/s 326 IPC and Harmeet Singh Appellant u/s 326/34 IPC and sentenced them to undergo rigorous imprisonment for three years and to pay a fine of Rs. 1000/-each and in default of payment of fine, to undergo further rigorous imprisonment for three months. Baljinder Singh, Sandeep Singh and Gurshinder Singh Appellants were also convicted u/s 324 IPC, whereas Harmeet Singh Appellant u/s 324/34 IPC and sentenced to undergo rigorous imprisonment for one year each. Similarly, Harmeet Singh Appellant was convicted u/s 323 IPC, whereas Sandeep Singh, Baljinder Singh and Gurshinder Singh Appellants u/s 323/34 IPC and sentenced to undergo rigorous imprisonment for six months each. All the substantive sentences were ordered to run concurrently.

3. According to the prosecution, the occurrence in question had taken place on 26.12.1995 at about 11.15 AM when complainant-Jagtar Singh, alongwith LC Romesh Kumar and C. Rajinder Kumar was proceeding on a motor cycle to Chhehartta and had

reached near the shop at the gate of Khalsa College, Amritsar, Gurshinder Singh Appellant signalled them to stop the vehicle. At that time, Sandeep Singh Appellant, who was armed with a sword gave a push to the complainant, as a result whereof the latter fell down. The right shoulder of the complainant was hit by the motor cycle. Sandeep Singh Appellant, thereafter, gave a sword blow on the back of the complainant. Gurshinder Singh and Baljinder Singh Appellants armed with kirpans and Harmeet Singh Appellant and three other un-known persons while carrying a dang each, also reached there. Gurshinder Singh Appellant, thereafter, gave two kirpan blows, hitting the complainant on his wrist and back of the left hand. Sandeep Singh Appellant gave another kirpan blow, hitting the complainant on his left arm near the elbow. Baljinder Singh Appellant gave two kirpan blows on the left leg of the complainant. Sandeep Singh Appellant gave another kirpan blow on the right arm, whereas Harmeet Singh Appellant gave two dang blows on the right thigh and knee of the complainant. The three un-known persons also gave dang blows to the complainant, hitting on his left foot, right ankle, right leg and left cheek. When his companions stepped forward to rescue the complainant, the accused caused injuries to LC Romesh Kumar. Thereafter, all the Appellants and their companions ran away from the spot while carrying their respective weapons.

4. The motive behind the occurrence was that about 11/2 months ago, the complainant had an altercation with Sandeep Singh Appellant but the matter was compromised. Despite the same, Sandeep Singh nursed a grudge in his mind and in order to take revenge, he, alongwith other accused, caused injuries to the complainant.

5. Learned Counsel appearing for the Appellants in both the appeals have not challenged the impugned judgment of conviction. However, they have stated that all the Appellants have been facing the agony of criminal prosecution for the last about 15 years. At the time of the occurrence, the Appellants were in their twenties. None of them is a previous convict. All of them have paid the fine imposed upon them by the trial Court. Sandeep Singh and Gurshinder Singh Appellants have already undergone a period of about 5 months in jail whereas in the case of Baljinder Singh and Harmeet Singh, the said period is about 4 months. The present appeals have remained pending in this Court for more than 9 years. Under these circumstances, the remaining sentences of imprisonment imposed upon the Appellants be set aside.

6. Learned State counsel has opposed the prayer made on behalf of the Appellants by submitting that all of them had caused numerous injuries to Jagtar Singh-complainant and Romesh Kumar. Out of 13 injuries received by Jagtar Singh, 4 were grievous in nature, including an injury on the occipital region of his scalp. Therefore, none of Appellants deserves any concession in the matter of sentence. However, learned State counsel has produced custody certificates as per which, Sandeep Singh and Gurshinder Singh Appellants have undergone an actual period of 4 months and 20 days in jail whereas in the case of Baljinder Singh Appellant, the said period is 3 months and 19 days. It has also been submitted that the jail record regarding admission of Harmeet Singh Appellant is not traceable.

7. Taking into consideration the totality of the circumstances, the Court is of the view that no useful purpose would be served by sending the Appellants behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice would be amply met if the substantive sentences of imprisonment of the Appellants are reduced to that already undergone by them.

8. Resultantly, the conviction of the Appellants for the various offences, as recorded by the trial Court, is maintained. The substantive sentences of imprisonment of the Appellants are reduced to that already undergone by them. The fine of Rs. 1000/-imposed upon each of the Appellants is enhanced to Rs. 20,000/-and in default of the same, the concerned Appellant shall undergo rigorous imprisonment for 9 months. The Appellants are granted three months" time from today for depositing the enhanced fine. Once the enhanced amount of fine is deposited by the Appellants, the same be disbursed to Jagtar Singh and Romesh Kumar injured in the ratio of 80:20.

Both the appeals are, accordingly, disposed of.