

**(1963) 04 P&H CK 0001**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Criminal Revision No. 1357 of 1962

Puran Chand

APPELLANT

Vs

The State

RESPONDENT

**Date of Decision:** April 23, 1963

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 159, 160

**Hon'ble Judges:** Bedi, J

**Bench:** Single Bench

**Advocate:** S.M. Suri, for the Appellant; M.R. Punj, for the Respondent

**Final Decision:** Allowed

**Judgement**

@JUDGMENTTAG-ORDER

Bedi, J.

Puran Chand Petitioner in this case along with Kundan Ram was convicted by Shri Des Raj Mahajan, Magistrate 1st Class Bhatinda, u/s 160 of the Indian Penal Code, and sentenced to pay Rs. 10/- as fine, vide his order dated the 29th June 1962. He went up in revision to the Court of Session, and the learned Sessions Judge vide his order dated the 20th September 1962 recommended to this Court that the revision be accepted and the conviction and sentence imposed upon the Petitioner be set aside.

2. The facts of this case are simple. It is alleged that Puran Chand Petitioner and Kundan Ram were found by A. S. I. Parma Nand (P. W. 3) of Police Station Raman to be quarrelling amongst themselves in the Chowk of Talwandi Sabo on the 13th January 1962 at about 7 P. M. and thereby disturbing the public peace. They were arrested u/s 151, Criminal Procedure Code, in the presence of Ruldu Singh (P. W. 1) and some others, and were sent up for trial under action 160, Indian Penal Code. It is also alleged that Puran Chand at that time was drunk. It is not denied that the place of occurrence was, a public place. The only point which requires determination

is whether exchange of abuses or a wordy quarrel would amount to an affray or a fight. Section 160 Indian Penal Code, runs as under:

Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

"Affray" is defined in Section 159, Indian Penal Code, as under:

When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray".

3. In the present case there is nothing on the record to show that the accused successfully or even otherwise exchanged any blows. What we have on the record is that there was only exchange of abuses. The exchange of abuses, in my opinion, would not amount to an affray. Something more than a mere wordy quarrel is needed before a person can be convicted under this section. It would be enough if blows are aimed, whether those prove to be successful or otherwise. But even that is lacking in this case. The learned Sessions Judge while recommending this case to this Court relied on Ganesh Das v. Emperor(A. I. R. 1928 Lah. 813 (1)) and Jagannath Sah v. Emperor(A. I. R. 1937 Oudh 475). In addition to the above authorities, Atma Singh v. The State(A. I. R. 1855 P&H 191: 57 P. L. R. 437) is also relevant to understand what is meant by the word "fight" and the word "affray". The Petitioner's counsel also cited The AIR 1926 412 (Lahore) but that case is not relevant to the issue before us. The learned Counsel for the State, on the other hand, cited In re. Muthuswami Iyer( A. I. R. 1937 Mad 286), but this authority has no bearing on the point before us. This authority only tells us what is meant by a public place, and what is sufficient proof of breach of public peace.

4. For the reasons given below, I accept the recommendation made by the learned Sessions Judge and acquit the accused.