

(2005) 10 P&H CK 0020

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal No. 1220-SB of 2002

Balbir Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Oct. 6, 2005

Acts Referred:

- Penal Code, 1860 (IPC) - Section 307, 450

Citation: (2006) 1 RCR(Criminal) 707

Hon'ble Judges: M.M. Aggarwal, J

Bench: Single Bench

Advocate: Vikas Chatrath, for the Appellant; Ramandeep Sandhu, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

M.M. Aggarwal, J.

Balbir Singh Appellant had been convicted by the Court of Additional Sessions Judge, Patiala vide judgment dated 9.4.2002 for the offence under Sections 307/450/323/506 IPC and sentenced to undergo RI for a period of 10 years and to pay a fine of Rs. 2000/- in default of payment of fine, he was to undergo RI for six months for the offence u/s 307 IPC, for the offence u/s 450 IPC, he was directed to undergo RI for a period of five years and to pay a fine of Rs. 1000/-, in default of payment of fine, he was to undergo RI for a period of six months, for the offence u/s 323 IPC, he was directed to undergo RI for a period of six months and for the offence u/s 505 IPC, he was directed to undergo RI for a period of six months.

2. Prosecution case against Balbir Singh is that on 3.5.2000 at about 4.00 P.M. Jarnail Singh was present in his fields situated in village Rorewal, then accused Balbir Singh came there and asked Balbir Singh not to cultivate the land. Then Balbir Singh, who had 'gandasi' with him, gave gandasi blow on the head of Jarnail Singh. He gave two more gandasi blows from its reverse side on the right wrist joint of the complainant.

when Jarnail Singh raised lalkara, it attracted Charan Singh and Darbara Singh. Then accused-Appellant had run away. Jarnail Singh was medically examined. Case was registered, matter was investigated and then this Balbir Singh was challaned. Case was found to be proved. Accused-Appellant was convicted and sentenced as aforesaid.

3. In this case, following injuries were found on the person of Jarnail Singh when was examined on 3.5.2000 by Dr. Anju Gupta (PW2):

1. A lacerated wound 6 cm. x 0.5 cm. on parietal region of scalp 17 cm. away from the bidge of nose. 17 cm. away from tragus of letters. Wound is deep in nature. Fresh bleeding was present. Advised X-ray.

2. Two lacerated wound 3 cm. x 0.1 cm. and 1 cm. x 0.1 cm. Present on vental aspect of right fore-arm on lateral aspect wrist joint. Wounds were superficial in nature. Fresh bleeding was present.

3. C/o pain over left upper arm. Slight abrasion was present. No fresh bleeding, slight tenderness present.

4. Counsel for the Appellant had argued that lacerated wound could not be there if gandasī was struck on the head from the sharp side. He argued that it was a false case. It was also argued that there was no fracture and that the injuries were simple and no conviction could be recorded.

5. However, Dr. Anju Gupta (PW2) had stated that the injuries could be caused by weapon like gandasī shown to her in the Court. She had also made report that injury No. 1 was grievous since there was fracture on skull vault on left side although she could not say that the injuries would have been dangerous to life, if the medical treatment was not given.

6. Injury No. 1 was on parietal region of scalp. It was deep in nature. It had a fracture. In the normal course, it could easily be said that such injuries would be dangerous to life.

7. Jarnail Singh appeared as PW4 whereas Darbara Singh appeared PW5 and had also supported the prosecution case as far as occurrence is concerned. Both these witnessed named the present accused-Appellant, who had caused the injuries. There is no improbability in the prosecution evidence.

8. It had been argued by counsel for the Appellant that even as per complainant, occurrence had just taken place at the spur of moment when accused went to the fields and saw Jarnail Singh cultivating the land on which accused was laying his claim and as such a lenient view should be taken.

9. Taking into account the facts and circumstances of the case while maintaining the conviction, I am of the view that the sentence of ten years imprisonment for the offence u/s 307 IPC is on the higher side. The same is reduced to six years RI. All the

other sentences including fine shall remain as awarded by the trial Court.

10. With this modification, appeal stands dismissed.

Appeal dismissed.