

(2010) 04 P&H CK 0098

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Gurmeet Singh and Another

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: April 29, 2010

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Penal Code, 1860 (IPC) - Section 307, 34

Hon'ble Judges: Tej Pratap Singh Mann, J

Bench: Single Bench

Judgement

T.P.S. Mann, J.

Instant appeal has been filed by the appellants against the judgment and order dated 5/10.8.1998 passed by Additional Sessions Judge, Karnal, whereby they were convicted u/s 307 read with Section 34 IPC for causing injuries to Narender Singh PW3 on 3.8.1996 within the area of village Kheri Saraf Ali and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs. 2500/- each and in default of payment of fine, to undergo rigorous imprisonment for a period of one year more.

2. According to the prosecution, appellant-Gurmeet Singh while armed with a gandasi and appellant Mota @ Jaswinder Singh armed with a lathi assaulted Narender Singh at the tubewell of Hari Singh Pehalwan. The attack was opened by Gurmeet Singh, who gave a gandasi blow on the head of Narender Singh as a result of which, he fell down. Mota @ Jaswinder Singh ran after complainant Azad Singh but the latter was able to snatch his lathi. However, Mota @ Jaswinder Singh gave 2/3 kick blows to Narender Singh, who was lying on the ground.

3. The motive for the occurrence was that 4/5 days prior to the occurrence complainant-Azad Singh and his friend Narender Singh had a scuffle with appellant-Gurmeet Singh while they were playing cards. There was an exchange of

abuses but the matter was pacified. Despite the same, on the day of occurrence, Gurmeet Singh again started abusing complainant Azad Singh and Narender Singh and raised a lalkara to teach a lesson to them for picking up a quarrel with him.

4. In support of its case, the prosecution had examined complainant Azad Singh as PW1 and injured Narender Singh as PW3, who deposed about the ocular account. The medical evidence was brought on record by examining Dr. Yashpal Singh Mann as PW2, Dr. Surinder Sukhija as PW6 and Dr. V.S. Rathee as PW7 whereas PW4 ASI Jagdev Singh, PW5 ASI Baljit Singh, PW8 ASI Rajinder Singh, PW9 Head Constable Suresh Chander and PW10 Constable Inder Singh testified about the various steps taken by them during the investigation of the case.

5. When examined u/s 313 Cr.P.C., both the appellants had denied the prosecution version in its entirety and pleaded false implication. According to them, on 3.8.1996 at about 7.45 a.m. complainant Azad Singh and Narender Singh were sitting at the khokha of Gurnam Singh. Narender Singh was to receive Rs. 1000/- from accused Gurmeet Singh and Rs. 1200/- from accused Mota @ Jaswinder Singh as the same were won by him while playing cards 15 days prior to the occurrence. Narender Singh demanded Rs. 1000/- from Gurmeet Singh but the latter showed his inability in paying the amount. Narender Singh still insisted in obtaining the said amount. At about 8.00 a.m. Mota @ Jaswinder Singh alongwith his brother Sukhvinder Singh went to the tubewell for taking bath where complainant Azad Singh and Narender Singh met them. At that place, Narender Singh demanded the amount from accused Mota @ Jaswinder Singh, who also showed his inability to pay the same. A scuffle took place whereupon Narender Singh picked up a kassi lying there. When he tried to attack Mota @ Jaswinder Singh, the latter's brother Sukhvinder Singh intervened and gave a gandasi blow to Narender Singh. It was denied that any of the accused had given injuries to Narender Singh PW. In defence, the appellants did not examine any witness but tendered in evidence copy of judgment dated 7.6.1979 in Sessions Case No. 26 of 1978 as Ex.D1.

6. I have gone through the evidence brought on the record by the prosecution and find that the testimonies of complainant Azad Singh PW1 and injured Narender Singh PW3 inspire confidence. Both of them had given in detail as to how the occurrence took place. They also mentioned about the motive of the accused in opening the assault. The testimonies of the injured and the complainant stand duly corroborated by the medical evidence. As a result of the injury caused by Gurmeet Singh-appellant with gandasi, injured Narender Singh suffered an incised injury on his head, which was lateron declared to be grievous in nature as a fracture was found of left temporo-parietal bone. The injury being on the head of the injured and the attack launched by the accused with an intent to kill Narender Singh, offence u/s 307 IPC is made out. Mota @ Jaswinder Singh-appellant was armed with a lathi at the time of the occurrence although the same was snatched by complainant-Azad Singh. Despite the same Mota @ Jaswinder Singh did not lag behind in actively

participating the occurrence by giving 2/3 kick blows to Narender Singh, who was lying on the ground. Under these circumstances, no case is made out for any interference in the conviction of the appellants for the offence u/s 307 read with Section 34 IPC.

7. The occurrence in question had taken place in the month of August 1996. Ever since then the appellants have been facing the agony of criminal prosecution. They were arrested on 5.8.1996 and remained in custody throughout the trial of the case. It was on 30.9.1999 that their sentences were suspended by this Court and they were ordered to be released on bail. As per the custody certificates produced by learned State counsel, appellant-Gurmeet Singh has served an actual period of three years, two months and two days in jail, including the undertrial period whereas in the case of Mota @ Jaswinder Singh-appellant the said period is three years, two months and nine days. Both of them have been sentenced to undergo imprisonment for ten years. When the appellants were heard by the trial Court on the quantum of sentence, it was pleaded by Gurmeet Singh-appellant that he was a poor person with clean past and had old parents and minor children to look after whereas according to Mota @ Jaswinder Singh-appellant, he was a poor person, who was in the prime of his life and a sole bread winner of his family. The present appeal has remained pending for the last about 12 years. Under these circumstances, this Court is of the view that no useful purpose would be served by sending the appellants behind the bars, once again, so as to undergo the remainder of their sentences. Ends of justice would be amply met if the substantive sentence of imprisonment imposed upon the appellants by the trial Court is reduced to that already undergone by them. At the same time the amount of fine of Rs. 2500/-imposed upon each of the appellant can be enhanced to Rs. 25,000/- so that injured Narender Singh may be adequately compensated.

8. Resultantly, the conviction of the appellants u/s 307 read with Section 34 IPC is maintained. The substantive sentence of imprisonment imposed upon the appellants by the trial Court is reduced to that already undergone by them. However, the amount of fine is enhanced from Rs. 2500/- to Rs. 25,000/- in case of each of the appellants. The fine shall be deposited by the appellants with the trial Court within three months from today, failing which the defaulting appellant shall be required to undergo rigorous imprisonment for one and a half year. The enhanced fine, if deposited, be disbursed to injured Narender Singh as compensation.

9. The appeal is, accordingly, disposed of.