

**(2010) 04 P&H CK 0280**

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

**Case No:** None

Ramesh Chand and Bhajan Lal

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

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**Date of Decision:** April 5, 2010

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 313
- Penal Code, 1860 (IPC) - Section 307, 323, 324, 34, 506

**Hon'ble Judges:** A.N. Jindal, J

**Bench:** Single Bench

**Final Decision:** Dismissed

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**Judgement**

A.N. Jindal, J.

This judgment of mine shall dispose of aforesaid two matters i.e. Criminal Appeal No. 62-SB of 2000, preferred by Ramesh Chand appellant-accused (herein referred as "the accused") and Criminal Revision No. 402 of 2000, preferred by Bhajan Lal petitioner-complainant (herein referred as "the complainant"), against the judgment dated 24.12.1999, passed by Addl. Sessions Judge, Sirsa, who while acquitting the accused Des Raj and Paramjit Singh under Sections 307 IPC, convicted them under Sections 323 and 324 read with Section 34 IPC. The accused Ramesh Chand was convicted u/s 307 IPC read with Section 34 IPC. The co-accused Des Raj and Paramjit were ordered to be released, if no more required in any other case, as they had already undergone the sentence awarded against them, whereas the accused Ramesh Chand was sentenced to undergo rigorous imprisonment for a period of 6 months u/s 323/34 IPC, rigorous imprisonment for a period of 500 days u/s 324/34 IPC and rigorous imprisonment for a period of 4 years u/s 307 IPC.

2. Bhajan Lal complainant (herein referred as "the complainant") in his statement dated 24.06.1998 before ASI Shamsheer Singh, disclosed that he is running a Commission Agent's shop in Mandi Dabwali. About 3 days prior to the occurrence,

Atma Ram had taken his tractor to run the tubewell in the fields. On 24.06.1998, at about 8:00 a.m., he went to the field of Atma Ram to take the tractor back. After telling him to deliver his tractor at his residence, when he was returning towards his scooter via a water channel and reached near the field of Ram Chand, the accused Ramesh Kumar and Paramjit armed with lathies and the accused Des Raj @ Kali armed with Kassai encircled him and asked him as to why he was passing through their field. The complainant replied that he was not passing through their field but via Dhori Khal (water channel). On listening his reply, the accused started using filthy language. The complainant further remonstrated them. When the complainant reached near his scooter, the accused Des Raj gave a kassia blow on his head, as such, the complainant fell down. The accused Ramesh inflicted a lathi blow on his foot and the accused Paramjit inflicted four lathi blows on his right leg. PW Naresh tried to rescue him. The complainant raised hue and cry which attracted several persons. At this, the accused fled away alongwith their respective weapons. PW Naresh Kumar took the complainant on the scooter to his residence. Hira Lal, Sarpanch of the village, also arrived there. Tek Chand son of Tehla Ram also came there. In the meantime, brick bats started coming from the residence of Ram Chand (father of the accused persons). In self defence, the complainant also threw some brick bats towards the residence of Ram Chand. Thereafter, when the complainant came out of his house for reporting the matter to the police then the accused Ramesh fired from licenced gun of his father, hitting Tek Chand on his foot. The second fire shot by Ramesh did not hit anyone as the complainant and the other persons had gone inside the house. On hearing the gun shots, Soma Bai and Bhagwani Devi came over the roof. Then accused Ramesh went to the roof and fired two shots towards the roof of the complainant which caused injuries on the persons of these ladies. Several villagers encircled outside the house of the complainant. Thereafter, the accused Ramesh fled away from the spot. The complainant was shifted to Primary Health Centre, Dabwali where he was given first aid and was referred to Civil Hospital, Sirsa. The two ladies namely Soma Bai and Bhagwani Devi remained in the village because of the minor injuries. On the aforesaid statement of the complainant, FIR EX.PA/1 was registered and the case was investigated. Consequently, the accused were challaned.

3. The charges under Sections 323, 324, 307 and 506 read with Section 34 IPC were framed against the accused to which they pleaded not guilty and opted to contest.

4. The prosecution in order to substantiate the charges, examined 17 witnesses in all, out of whom a reference to the relevant witnesses is made.

5. PW2 Dr.Meenakshi, who examined Bhajan Lal complainant, proved the copy of the MLR Ex.PB. She also sent ruqa Ex.PC to the police station. She declared all the injuries on the person of Bhajan Lal as simple in nature vide her report Ex.PE dated 23.07.1998.

6. PW3 Dr.Tirath Singh Bagri examined Soma Bai at PHC, Chautala and proved the copy of MLR Ex.PF. On receipt of the x-ray report, he declared the only injury on the person of Soma Bai as simple in nature vide his report Ex.PG.
7. PW1 Bhajan Lal and PW4 Tek Chand, who suffered injuries at the hands of the accused, supported the prosecution case. PW12 Dr.S.L.Aggarwal, who had radiologically examined Tek Chand as well as Soma Bai, opined that as per his reports Ex.PY and Ex.PZ, no fracture was found. PW14 Hira Lal, an eye witness, has submitted that on 24.06.1998 at about 9:30 a.m., he had gone to the house of complainant in connection with some domestic work. In the meantime, accused Ramesh armed with licenced gun came in the street with an intention to kill the complainant. The first fire shot hit on the foot of Tek Chand and the second did not hit anybody. Thereafter, accused Ramesh Chand fired, resultantly, some pellets hit the ear-pit of Soma Bai and on the arm of Bhagwani Devi. PW17 Dr.Joginder Singh had medico-legally examined Tek Chand on 24.06.1998 in Civil Hospital, Sirsa and proved the MLR Ex.PKK.
8. On closure of the prosecution evidence, when examined u/s 313 Cr.P.C., the accused denied all the incriminating circumstances appearing against them and pleaded their false implication in the case. They also took the plea of self defence while stating that on 24.06.1998, Mehanga Ram was going in the street near his residence and Bhajan Lal came on a scooter which struck against Mehanga Ram. Bhajan Lal fell down from the scooter and Mehanga Ram after receiving the injuries gave a slap to Bhajan Lal and asked him not to drive the scooter rashly. The accused intervened and asked them not to quarrel. Bhajan Lal threatened the accused and after sometime, he alongwith other persons arrived at the residence of Mehanga Ram. The complainant Bhajan Lal entered into the house of Mehanga Ram and tried to kill him with the gandasa. When Maya Devi wife of Mehanga Ram intervened, the complainant Bhajan Lal gave a gandasa blow from the reverse side on her head. The accused also gave lathi blow to Bhajan Lal in order to save Mehanga Ram and his wife. Children of Mehanga Ram came over the roof and raised hue and cry which attracted many persons on the spot. Harnam Dass and Pala Ram fired from their guns and thereafter complainant Bhajan Lal fled away. Puran and Bhajan Lal took Maya Devi to the hospital. In fact, no occurrence in the fields or in front of the house of Bhajan Lal took place. The accused persons also pleaded that the complainant fabricated the false story and implicated them in the false case at the instance of Hira Lal, Sarpanch and Ors.
9. In defence, the accused examined Mehanga Ram (DW1 and Maya Devi (DW2) and tendered some documents.
10. On appreciation of evidence, the trial ended in conviction.
11. At the very outset, the accused, without assailing the judgment of conviction, has prayed for seeking some indulgence of the Court on the quantum of sentence.

12. Even otherwise, having scrutinized the statements of injured Bhajan Lal (PW1) and Tek Chand (PW4) so also the testimony of Hira Lal, Sarpanch (PW14), all eye witnesses to the occurrence, no iota of doubt remains in the mind of the Court to hold that they suffered injuries at the hands of accused Ramesh Chand, Des Raj @ Kala and Paramjit @ Bagga. The fatal injuries are attributed to Ramesh Chand. As such, the judgment of conviction, as recorded by the trial Court, is ordered to be maintained.

13. Now coming to the quantum of sentence, Dr.Joginder Singh (PW17), who had examined Tek Chand, also found all the three injuries on the person of Tek Chand, as simple in nature. None of the injures were found to be dangerous to life. The parties are neighbours. The occurrence took place on the spur of moment way back on 24.06.1998. The accused has already suffered a lot due to the protracted proceedings pending in the Courts since then. He has already undergone 1 year, 5 months and 13 days of the substantive sentence. No such antecedents have been brought on record which may be sufficient to prove him as habitual offender. Under these circumstances, ends of justice would be met if some reduction in the sentence is made. It may further be observed that keeping in view the nature of the injuries suffered by Soma Bai from the accused side and that both the parties have suffered injuries, no case for enhancement of the sentence is made out. However, some reduction in the sentence could be made.

14. Resultantly, the aforesaid appeal as well as revision petition are dismissed with the modification in the sentence which is reduced to 1♦ years u/s 307 IPC without any alteration in the sentence of fine and the sentence for other offences.

15. Copy of the judgment be sent to Chief Judicial Magistrate, Sirsa, for compliance.