

**(2009) 03 P&H CK 0272**

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

**Case No:** None

Surat Singh and Others

APPELLANT

Vs

State of Punjab

RESPONDENT

**Date of Decision:** March 26, 2009

**Acts Referred:**

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

**Hon'ble Judges:** Ashutosh Mohunta, J

**Bench:** Single Bench

**Judgement**

Ashutosh Mohunta, J.

The petitioners were convicted and sentenced by the Judicial Magistrate 1st Class, Fazilka vide judgment dated 13.12.1999 and the details of sentence are as under:

Name of the appellants	Offence Under Sections	Sentence	Fine Rs.
Surat Singh	326/34 IPC	RI for 1-1/2 years	1000/-
	323 IPC	RI for three months	200/-
Ashok Singh	326 IPC	RI for 1-1/2 years	1000/-
	323 IPC	RI for three months	200/-
Karnail Singh	326/34 IPC	RI for 1-1/2 years	1000/-
	323 IPC	RI for three months	200/-

2. Against the aforementioned judgment the petitioners filed an appeal which has been dismissed vide judgment dated 22.12.2002, passed by the Addl. Sessions Judge, Ferozepur and accordingly, the conviction and sentence of the petitioners have been upheld. It is these judgments which have been impugned in the present revision petition.

3. Briefly the facts of the case are that on 1.8.1996, at about 7.00 Jagir Singh son of Sona Singh resident of village Sukhera Bodla was returning home after answering a call of nature. When he reached Satsang Ghar, he was way laid by Ashok Singh son of Karnail Singh armed with gandasi, Surat Singh son of Karnail Singh armed with dang and Karnail Singh son of Goma Singh empty handed. All the aforementioned persons were residents of village Sukhera Bodla. Karnail Singh raised a lalkara that Jagir Singh should not be spared as he had given dang blows to Ashok Singh. Upon his lalkara Ashok Singh gave a gandasi blow which hit the little finger of the left hand of Jagir Singh and Surat Singh gave four dang blows to Jagir Singh which hit on his left foot and back. On hearing the cries of the complainant, Chiman Singh reached the spot and thereafter all the accused ran away. The petitioners were charged u/s 326, 323 and 34 IPC and the trial Court by relying the on statements of PW3 Jagir Singh, the injured-complainant and Chiman Singh, PW4 convicted all the accused and sentenced them as has been mentioned in the opening paragraph. The appeal filed by the petitioners was also dismissed by the Addl. Sessions Judge, Ferozepur vide judgment dated 22.11.2002.

4. Counsel for the petitioner has contended that the role attributed to Karnail Singh was a lalkara and that he had not given any injury to the complainant. He further submits that as far as Surat Singh is concerned he is alleged to have given dang blows to the complainant and all the blows are simple in nature. Learned Counsel further submitted that the occurrence took place on 1.8.1996 and as more than 1 ♦ years have elapsed since the date of incident, therefore, all the accused be dealt with leniently while imposing sentence upon them. He has further submitted that all the accused have already undergone approximately 6 months of actual imprisonment.

5. A perusal of the judgments passed by the Courts below shows that as a result of the injuries inflicted upon the complainant, his left finger had to be amputated. The complainant suffered the following injuries:

1. Amputated left little finger through proximal ♦ of proximal phalanx. Skin all around the stump was sharply cut. Fresh bleeding was present. From the skin soft tissues and bon.
2. A swelling of 4 cm x 3 cm on the lateral half of left foot. Tenderness was present on 3rd and 4th metatarsala. X-ray was advised of left foot.
3. A reddish brown abrasion of 6 cm x 1 cm transversely placed on the proximal half of right calf in its posterolateral surface.
4. A reddish brown abrasion of 3 cm x 1 cm on the posterior surface of right left about 15 cm proximal to right heel.
5. Two obliquely placed parallel to each other contusions of the size of 12 cm x 1 cm on the right side of the back. Medial and correspondent to DS vertebra.

6. All the injuries suffered by the complainant correspond to the ocular version given by Jagir Singh, injured and Chiman Singh, eye witness. Hence all the petitioners have rightly been convicted u/s 326, 323/34 IPC.

7. As far as the question of sentence imposed upon the petitioners is concerned, I find that petitioner No. 3-Karnail Singh has been attributed only lalkara. There has been no injury caused by him to the complainant. This accused has also undergone approximately 6 months of actual sentence. In view of the above, I reduce the sentence of Karnail Singh, to the sentence already undergone by him.

8. As far as petitioner No. 1-Surat Singh is concerned, he has given dang blows on the left foot and back of the injured complainant, but all the injuries are simple in nature. This accused has also undergone approximately 6 months of sentence. Therefore, keeping in view the nature of injuries caused by Surat Singh, I reduce his sentence also to the sentence already undergone by him.

9. However, as far as petitioner No. 2-Ashok Kumar/Ashok Singh son of Karnail Singh is concerned, he has given one gandasi blow on the left finger of the injured-complainant as a result of which the same had to be amputated. This accused does not deserve any leniency. However, as the incident took place way-back on 1.8.1996, i.e. more than 12♦ years ago, therefore, his sentence u/s 326 IPC is reduced from 1♦ years to 1 year. Sentence u/s 323 IPC is maintained. The fine imposed by the Courts below are also maintained and upheld. Both the sentences shall run concurrently. He is on bail. His bail bonds are cancelled. He be taken in custody forthwith to serve out the remaining portion of his sentence.