
Satwant Singh alias Rocky Vs State of Punjab

Criminal Appeal No"s. 1104-SB of 2003

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: March 16, 2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) â€” Section 173, 313#Penal Code, 1860 (IPC) â€”
Section 148, 149, 308, 323, 325

Hon'ble Judges: Kanwaljit Singh Ahluwalia, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Kanwaljit Singh Ahluwalia, J.

By this common order, Criminal appeals viz. Criminal Appeal No. 1104-SB of 2003, preferred by Satwant

Singh alias Rocky, Criminal Appeal No. 1108-SB of 2003, preferred by Sham Lal, Criminal Appeal No. 1122-SB of 2003, preferred by

Mohinder Singh, shall be decided together along with Criminal Revision No. 2011 of 2003, preferred by Gurbax Singh, complainant-injured.

2. Appellants Sham Lal, Satwant Singh alias Rocky and Mohinder Singh were sent to trial along with their co-accused Kuldip Singh, Ravinder

Singh, Gurpreet Singh, Gurdeep Singh and Kashmir Singh alias Rana. Kuldip Singh died during the course of trial and Gurdeep Singh was

declared as a Proclaimed Offender. The trial Court, vide its judgment dated 21.5.2003, had acquitted Ravinder Singh, Gurpreet Singh and

Kashmir Singh alias Rana on the ground that their names were not mentioned in the FIR. However, the trial Court held the Appellants guilty for the

offence under Sections 325 and 325 read with Section 34 IPC and vide a separate order of even date, sentenced them as under:

Sr. Section Name of Sentence awarded

No. accused

1. 325 IPC Sham Lal To undergo rigorous imprisonment for a period of

four years and to pay a fine of Rs. 1,000, in default
whereof to further undergo rigorous imprisonment for
a period of one year.

2. 325 read with Satwant Singh To undergo rigorous imprisonment for a period of

Section 34 IPC four years and to pay a fine of Rs. 1,000, in default
whereof to further undergo rigorous imprisonment for
a period of one year.

3. 325 read with Mohinder Singh To undergo rigorous imprisonment for a period of

Section 34 IPC four years and to pay a fine of Rs. 1,000, in default
whereof to further undergo rigorous imprisonment for
a period of one year.

The Appellants were acquitted of the charges under Sections 308, 452, 323, 148 and 149 IPC.

3. P.W. 8 Gurbax Singh had made a statement Ex. P.W. 8/A to P.W. 9 Pritam Singh, Assistant Sub Inspector, stating that he was a resident of

Misra Mohalla, Noormahal and was doing practice of Homoeopathy. He was having a haveli adjoining his house, boundary wall whereof has been

raised. On 13.5.1997, as usual he was sleeping in his house along with his family members and at about 2.00 A.M. in the mid night, barking of the

pet dog was heard due to which Gurbax Singh woke up. He opened the door and went towards the side of haveli where he found that one person

was roaming there. He went forward and saw that the said person was Sham Lal son of Joginder Pal, caste Khatri. P.W. 8 Gurbax Singh

confronted him as to what was he doing there, upon which Sham Lal raised a lalkara and called seven/eight persons, who were sitting in his house.

Sham Lal gave a blow from his dang which hit on the back of right side of Gurbax Singh. The other accused had also started giving blows and

injured the complainant. Then Sham Lal gave another blow with dang which hit on the right knee of Gurbax Singh due to which he fell down. All

the other accused were giving blows with dangs and sotas. The complainant had raised a noise of ""Maar Ditta"" ""Maar Ditta"". On hearing the noise,

Harmeji Kaur wife and Harpal Singh and Karampal Singh, sons of the complainant, were attracted to the spot. They had witnessed the entire

occurrence. On seeing them, all the accused ran away from the spot along with their respective weapons. The complainant has further stated that

out of seven/eight persons, he knew two, namely Satwant Singh alias Rocky and Mohinder Singh, who had participated in the occurrence. The

cause of grudge was that the complainant was having a civil litigation with Sham Lal.

4. The occurrence, in the present case, had taken place on the night intervening 13/14.5.1997 at about 2.00 A.M. The statement of Gurbax Singh,

complainant, was recorded on 15.5.1997 at about 4.20 P.M. and the FIR Ex. P.W. 9/A was recorded on the same day at about 4.30/5.15 P.M.

at Police Station Noormahal.

5. The above said FIR was investigated and the report u/s 173 Code of Criminal Procedure was submitted.

6. The trial Court, on 12.8.2002, charged the Appellants along with the acquitted accused for the offence u/s 452 IPC. Appellant Sham Lal was

substantively charged for the offence u/s 325 IPC, whereas his co-accused were charged with the aid of Section 149 IPC. Appellant Satwant

Singh alias Rocky was substantively charged for the offence u/s 323 IPC, whereas the remaining accused were charged with the aid of Section

149 IPC. Appellant Mohinder Singh was also substantively charged for the offence u/s 323 IPC, whereas the remaining accused were charged

with the aid of Section 149 IPC. Appellant Sham Lal was also substantively charged for the offence u/s 308 IPC, whereas the remaining accused

were charged with the aid of Section 149 IPC. All the accused were charged for the offence u/s 148 IPC.

7. P.W. 8 Gurbax Singh was medicolegally examined on 14.5.1997 by P.W. 2 Dr. Chander Mohan, Senior Medical Officer, who found the

following injuries on his person:

1. A reddish contusion 10 cms x 1.5 cm on the lower part of the right side of back of chest. Complain of pain in palpation and respiration.

2. A reddish contusion 11 cms x 2 cms on the lower part of back. 8 cms below injury No. 1.

3. A reddish contusion 5 cms x 1.5 cms on the outer side of left side of chest in its lower part.

4. A reddish contusion 1.5 cm x 1 cm, 2 cms below injury No. 3.

5. A reddish contusion 4.5 cms x 3 cms on the left side of lower side of back just above left buttock.

6. A reddish contusion 1 cm x 4 cm on the back of left elbow.

7. A reddish abrasion 2.5 cms x 1.5 cm on the outer side of right elbow.

8. A reddish contusion 2.5 cm x .5 cm on the outer side of right elbow below injury No. 7.

9. A reddish abrasion 3 cms x 1.5 cm on the left knee on its front part.

10. Reddish abrasion 2 x 1 cm on the outer side of left ankle.

11. A reddish abrasion 2 cm x 1 cm on the outer side of left foot.

12. A swelling 8 cms to 20 cms. Revolving the right ankle joint with an overlying reddish abrasion on medial side of size of 8 cms to 4 cms.

13. A reddish abrasion 5 cms x 4 cms on the lower part of front of right leg just above injury No. 12.

14. A lacerated wound 6 cms x 1 cm on the outer side of upper part of right thigh. Complain of pain in the thigh. Fresh bleeding present.

15. There is subconjunctival hemorrhage on the outer side of right eye....

8. This witness has further stated that injury No. 1, on the back of chest of Gurbax Singh and injury No. 12, which was on his ankle joint were

declared as grievous. On 14.5.1997, on an application Ex. PD, this witness had declared the injured unfit to make a statement. Lateron, on

15.5.1997, Gurbax Singh was declared fit to make the statement.

9. P.W. 5 Dr. Tarsem Singh Bhatti stated that he had radiologically examined Gurbax Singh. Injury No. 1 showed the fracture of eighth rib on right

side, whereas injury No. 12 showed the fracture of lower end of tibia of right side. P.W. 1 Dr. J.S. Baath stated that at the relevant time, he was

posted as a Surgical Specialist in Civil Hospital, Rural, Noormahal.

10. Gurbax Singh was admitted in the Civil Hospital, Jalandhar, on 15.5.1997. It was a case of surgical emphysema and respiratory distress. He

declared that injury No. 1 could have been dangerous to life. P.W. 4 Subhash Chander had also radiologically examined Gurbax Singh. Gurbax

Singh, complainant-injured, appeared as P.W. 8 and reiterated as to what was stated in the FIR. In the Court, he has stated that when he had

confronted Sham Lal as to what was he doing in his house, he gave a dang blow on his right side of his back. The accused present in the Court

were armed with dangs and sotas. Sham Lal gave another blow which hit on the ankle of his right feet. Satwant Singh alias Rocky gave a dang

blow which hit just below his injury given by Sham Lal in the back. Satwant Singh alias Rocky gave another blow which hit left side of chest of the

complainant. Mohinder Singh gave a dang blow on the right side of his chest and above the left buttock. Kuldip Singh gave a dang blow which hit

on his left elbow and then he gave another dang blow which hit on the right elbow. Ravinder Singh alias Dhota gave a dang blow on the right arm

and another on the left knee of Gurbax Singh. He further stated that the other accused have also caused injuries to him. His wife Harmej Kaur and

sons Harpal Singh and Amar Pal Singh were attracted to the spot. This witness stated that he knew all the eight accused as they are native of his

village. Except Sham Lal, he had no litigation with any other accused. Harpal Singh, son of the complainant, appeared as P.W. 5 and corroborated

the statement of his father P.W. 8 Gurbax Singh.

11. P.W. 6 Ashok Kumar, Clerk from the office of the District Transport Office, Patiala, has proved Registration Certificate of the bus, which was

allegedly used by the accused for arriving at the place of incident. P.W. 7 Sukhpal Singh, Sub Inspector, on receipt of a Medicolegal Report on

30.5.1997, had added an offence u/s 308 IPC. P.W. 9 Pritam Singh, Assistant Sub Inspector, was the Investigating Officer. He proved various

facets of the investigation.

12. Thereafter, the statements of accused, u/s 313 Code of Criminal Procedure, were recorded. All the incriminating circumstances were put to

them. They denied the same and pleaded innocence.

13. Mr. Ramandeep Sandhu, Advocate, appearing for Appellant Mohinder Singh, has submitted that there is a delay in lodging of the report to the

police. It is stated that the occurrence took place on the night intervening 13/14.5.1997 at about 2.00 A.M., whereas the statement of Gurbax

Singh was recorded on 15.5.1997 at about 4.20 P.M. Mr. Sandhu has further submitted that P.W. 5 Harpal Singh and Karampal Singh, sons and

Harmej Kaur, wife of the complainant, were available at the spot but they did not make any effort to lodge the FIR. He has further submitted that

even if P.W. 8 Gurbax Singh had been declared not fit to make the statement on 15.5.1997, there was no impediment for the other eye witnesses

to approach the police and to give their versions. He has further submitted that the delay has been used to inflate the number of accused and this

fact has been taken into consideration by the trial Court to record acquittal of the three accused, namely Ravinder Singh, Gurpreet Singh and

Kashmir Singh alias Rana. He has further submitted that even though in his statement Ex. P.W. 8/A, P.W. 8 Gurbax Singh, injured, has named

Satwant Singh alias Rocky and Mohinder Singh, yet this part of his statement should be ignored being a blemish which had occurred due to

consultations and deliberations because of delay in lodging of the report. It is further submitted that the version as spelt out in statement Ex. P.W.

8/A cannot be said to be spontaneous.

14. Mr. Anmol Partap Singh Mann, Advocate, appearing for Appellant Sham Lal, has submitted that admittedly, there was a civil dispute pending

between P.W. 8 Gurbax Singh and Appellant Sham Lal. It was a blind occurrence and later on due to pendency of the litigation, Sham Lal has

been falsely implicated in the present case. Mr. Mann has further submitted that P.W. 5 Harpal Singh, on the day of occurrence, had also caused

injuries to father-in-law of Appellant Sham Lal and thus, he has been falsely involved.

15. Mr. Ankur Mittal, Advocate, has submitted that the prosecution has failed to prove as to why Satwant Singh alias Rocky had joined hands

with Appellant Sham Lal. He has further submitted that Satwant Singh alias Rocky had no motive to cause injuries to P.W. 8 Gurbax Singh. At this

stage, Mr. Mann has further submitted that the occurrence, in the present case, had taken place during night time and it would be difficult for P.W.

8 Gurbax Singh to notice and acknowledge that both the grievous injuries were caused by Sham Lal. He has further submitted that P.W. 10 Pritam

Singh, Assistant Sub Inspector, had obtained the Medicolegal Report and thereafter the FIR was recorded. Therefore, the possibility cannot be

ruled out that the statement Ex. P.W. 8/A, made by P.W. 8 Gurbax Singh, which led to registration of the FIR, was made in consonance with the

Medicolegal Report. Mr. Sandhu has further submitted that P.W. 5 Harpal Singh had relayed a message, on telephone, to the police, still he had

no version. Mr. Mittal has submitted that once the trial Court has given benefit of doubt to three accused namely Ravinder Singh, Gurpreet Singh

and Kashmir Singh alias Raja, implicit reliance cannot be placed upon the testimony of P.W. 8 Gurbax Singh and therefore, the Court should seek

further corroboration.

16. Learned Counsel for the Respondent-State has submitted that P.W. 8 Gurbax Singh had suffered 15 injuries, out of which two were grievous

in nature and such like injuries cannot be caused by a single person.

17. I have given my thoughtful consideration to the rival submissions, advanced by learned Counsel for the parties.

18. In the present case, the occurrence had taken place on the night intervening 13/14.5.1997 at about 2.00 A.M. in front of the house of P.W. 8

Gurbax Singh, who had suffered 15 injuries. All the injuries were caused with blunt weapon. Therefore, it can be safely assumed that in the

occurrence, more than two/three persons had participated. Appellant Sham Lal was having a civil litigation with P.W. 8 Gurbax Singh,

complainant-injured. It cannot be ruled out that Appellant Sham Lal had caused injuries to the complainant P.W. 8 Gurbax Singh but on the day of

occurrence, his father-in-law was also caused injuries by P.W. 5 Harpal Singh. It has come in the cross-examination of P.W. 5 Harpal Singh that

they reached Civil Hospital, Noormahal, at about 2.30 A.M. and at noon time, he took his father to Primary Health Center, Bilga. P.W. 5 Harpal

Singh has further stated that his statement was recorded on 15.5.1997 and at that time, he had named three accused and not eight. P.W. 8 Gurbax

Singh was suffering from respiratory problem and surgical emphysema. Therefore, the first anxiety of family members of P.W. 8 Gurbax Singh was

to ensure medical aid to the injured. In these circumstances, delay is not to be taken as a sole factor to discard the prosecution case. Delay

sometimes is used by the complainant to inflate the number of accused. The benefit of doubt due to delay has already flown to the three acquitted

accused. P.W. 8 Gurbax Singh will be the last person to allow the real assailants to go scot free. Therefore, involvement of these three Appellants

is writ large. As to why Appellants Mohinder Singh and Satwant Singh alias Rocky had joined hands with Appellant Sham Lal could not be

proved on record as sometimes motive is hidden too deep in the mind of the accused. Thus, this Court will uphold the conviction of Appellant

Sham Lal for the offence u/s 325 IPC, whereas Appellants Satwant Singh alias Rocky and Mohinder Singh with the aid of Section 34 IPC. The

trial Court, for two grievous injuries, out of which one was on the chest being a fracture of eighth rib of right side and other being a fracture of

lower tibia, has awarded a sentence of four years rigorous imprisonment. This Court cannot ignore the fact that P.W. 8 Gurbax Singh had suffered

15 injuries in all. The nature and number of the injuries are to be taken as an aggravating circumstance. At the same time, the occurrence, in the

present case, has taken place in the year 1997. A period of about 14 years has elapsed. The Appellants have suffered mental pain and agony of

protracted trial. It is stated that the Appellants have not committed any other offence, before or after the present occurrence. This is a mitigating

circumstance.

19. Taking into consideration the aggravating and mitigating circumstances, this Court is of the view that ends of justice will be fully met in case the

sentence of four years rigorous imprisonment, awarded upon the Appellants, is reduced to that of two years. However, sentence of fine and default

clause shall remain intact.

20. With the modifications in the sentence, awarded upon the Appellant, all the three appeals are disposed of.

21. Criminal Revision No. 2011 of 2003 has been filed seeking enhancement of the sentence. Since taking various factors into consideration, this

Court has already reduced the sentence of the accused from four years rigorous imprisonment, awarded upon them, to that of two years,

therefore, the prayer made in the revision petition cannot be accepted and the same is dismissed.