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(2010) 08 P&H CK 0415

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Om Parkash and Others	APPELLANT
Vs	
State of Haryana and Another	RESPONDENT

Date of Decision: Aug. 12, 2010

Acts Referred:

- Penal Code, 1860 (IPC) - Section 149, 324, 325, 452

Hon'ble Judges: Tej Pratap Singh Mann, J

Bench: Single Bench

Judgement

T.P.S. Mann, J.
Vide judgment and order dated 22.10.1998, Additional Sessions Judge, Hisar convicted the appellants and their co-accused Chatra for offence u/s 452 read with Section 149 IPC and sentenced them to undergo rigorous imprisonment for three years and to pay a fine of Rs. 500/ - each and in default of payment of fine, to undergo further rigorous imprisonment for six months. They were also convicted u/s 325 read with Section 149 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 500/- each and in default of payment of fine, to undergo further rigorous imprisonment for six months. Further, they were also convicted u/s 324 read with Section 149 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 500/- each and in default of payment of fine, to undergo further rigorous imprisonment for six months. The substantive sentences on all the three counts were ordered to run concurrently.

2. The facts of the case need not be gone into in view of the development that had taken place during the pendency of the appeal. On 13.7.2010, Learned Counsel for the appellants informed the Court that the matter between the parties stood amicably resolved. Today, complainant-Gowardhan, his brother Ram Kumar, his brother''s wife Indrawati and his son Ram Kishan, who had received injuries in the occurrence in

question have come present in person. All of them have got recorded their respective statements to the effect that at the intervention of the respectables of the village, the parties have entered into a compromise. Other than Ram Kishan, the remaining three injured have also placed on record their respective affidavits confirming the fact about compromise having been arrived at between the parties.

3. In view of the fact that the matter between the parties has been amicably resolved, Learned Counsel for the appellants has not challenged the conviction of his clients for the offences under Sections 452, 325 and 324 read with Section 149 IPC. Instead, he has submitted that the appellants have been facing the agony of criminal prosecution for the last 14 years. Even as per the complainant, the dispute between the parties was in respect of a Chabutra, which the complainant had constructed abutting his residential house and the accused were under the impression that it was an encroachment. None of the appellants is a previous convict. Therefore, instead of sending the appellants behind the bars, once again, to undergo their remaining sentences of imprisonment, they be granted the benefit of probation.

4. It being a complaint case, the complainant, who stands impleaded in the appeal as respondent No. 2 vide order dated 13.7.2010, has expressed his wish through his Counsel that he would have no objection if the benefit of probation is granted to the appellants, especially in view of the fact that the matter between the parties has already been amicably resolved.

5. It is a fact that the occurrence in question had taken place on the night intervening 21/22.2.1996, wherein injuries were caused by the appellants and their co-convict-Chatra to complainant Gowardhan, his brother Ram Kumar, his brother''s wife Indrawati and his son Ram Kishan. The dispute between the parties was in respect of a Chabutra constructed by the complainant abutting his residential house, which according to the appellants, was an encroachment. Apart from that, there was no other serious enmity between the parties. During the pendency of the appeal, wiser sense has prevailed between the parties and they have entered into a compromise. All the four injured, including the complainant, have made their respective statements before this Court, besides three of them producing their affidavits in support of the said fact. Under these circumstances, the Court is of the view that no useful purpose would be served by sending the appellants behind the bars for undergoing sentences of imprisonment imposed upon them. Ends of justice would be amply met if their sentences of imprisonment are set aside and instead, they are granted the benefit of probation.

6. Resultantly, the conviction of the appellants for the offences under Sections 452, 325 and 324 read with Section 149 IPC are maintained. Their sentences of imprisonment are set aside. Instead, they are ordered to be released on probation on their furnishing bonds in the sum of Rs. 10,000/ - each to keep peace and be of good behaviour for a period of one year with an undertaking to receive sentence as and when called upon to do so.

7. The appeal is, accordingly, disposed.