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Kapur Singh and Others Vs State of Punjab

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 2, 2003

Acts Referred: Penal Code, 1860 (IPC) â€" Section 148, 149, 323, 324, 326

Citation: (2003) 6 CriminalCC 275 : (2003) 3 RCR(Criminal) 510

Hon'ble Judges: Virender Singh, J

Bench: Single Bench

Advocate: J.S. Mann, for the Appellant; H.S. Hooda, for the Respondent

Final Decision: Dismissed

Judgement

Virender Singh, J.
Kapur Singh son of Sampuran Singh, Bhura Singh and Hazura Singh sons of Manna Singh, residents of village

Jagatgarh Bander, the petitioners herein, have filed the present revision petition against the impugned judgment dated 30.7.1988 of learned

Additional Sessions Judge, Bathinda and against the conviction of the petitioners by the trial Court vide judgment dated 10.7.1987.

2. It is worth mentioning that the present petitioners along with their two co-accused, namely, Lachhman Singh and Ruldu Singh sons of Gurbachan

Singh were convicted by the trial Court but they stand acquitted by the learned Appellate Court as their involvement was held to be doubtful.

Kapur Singh petitioner along with all accused was convicted by the trial Court u/s 148 IPC and was sentenced to undergo RI for one year. He

was further sentenced to undergo RI for two years and to pay a fine of Rs.500/- u/s 326 IPC and Ruldu Singh, Hazura Singh, Bhura Singh and

Lachhman Singh were sentenced to undergo RI for two years u/s 326 read with Section 149 IPC each. Ruldu Singh, Hazura Singh and Bhura

Singh were sentenced RI for one year each u/s 324 IPC and to pay a fine of Rs.300/- each, whereas Kapur Singh petitioner and Lachhman Singh

were sentenced to undergo RI for six months and to pay a fine of Rs.200/- u/s 323 IPC whereas Kapur Singh petitioner, Hazura Singh, Ruldu

Singh and Bhura Singh were sentenced to undergo RI for six months u/s 323 read with Section 149 IPC and it was also ordered that in default of

payment of fine of Rs.500/-, Kapur Singh petitioner herein was ordered to undergo further SI for three months, Ruldu Singh, Hazura Singh and

Bhura Singh each were ordered to undergo SI for two months in default of payment of fine and Lachhman Singh was ordered to undergo SI for

one month in default of payment of fine. The judgment of the learned trial court was confirmed upholding the conviction of the present petitioners.

The learned Additional Sessions Judge, however, set aside the conviction and sentence of all the appellants recorded u/s 148 IPC and further

modified the conviction as under:-

Kapur Singh u/s 326 IPC RI for 1 year and to pay a fine of Rs.500/- and in default of fine to further undergo RI for 3 months.

Hazura Singh and Bhura Singh u/s 326/34 IPC RI for nine months and to pay a fine of Rs.500/- each in default of payment of fine to undergo

further RI for 3 months.

Hazura Singh and Bhura Singh u/s 324 IPC RI for nine months and to pay a fine of Rs.300/- each in default of payment of fine to undergo further

RI for two months. Kapur Singh u/s 324/34 IPC

Kapur Singh u/s 323/34 IPC RI for six months and to pay a fine of Rs.300/-Hazura Singh and Bhura Singh RI for four months and to pay a fine of

Rs.200/- each and in default of payment of fine to undergo further RI for one month.

3. However, all the sentences were ordered to run concurrently. It was further ordered by the learned Appellate Court that a sum of Rs.2000/-

will be paid to Harmail Singh as compensation.

4. The case of the prosecution in short is that on 3.1.1984 at about 7.30 A.M., the complainant along with his son Gulzar Singh was going to his

field to pluck the cotton sticks and when they reached near the filed of Jaggar Singh, Kapur Singh, the petitioner herein, appeared with a kirpan

and challenged him as to where he would go that day though he had run away a day before yesterday. The complainant had stated that he had no

dispute with him and he should be allowed to go. It is then the case of the prosecution that Kapur Singh petitioner called his co-accused who were

hiding themselves in the cotton sticks. on which Hazura Singh and Bhura Singh petitioners along with Lachman Singh and Ruldu Singh (since

acquitted) also reached there along with arms. It is then the case of the prosecution that Kapur Singh gave a kirpan blow on the left leg of Harmail

Singh and he fell down. Hazura Singh petitioner also gave gandasa blow on the person of Harmail Singh. It is then the allegation that Lachman

Singh also caused injuries to the complainant and then fled away from the spot. The injury attributed to Kapur Singh petitioner falls within the

mischief of Section 326 IPC.

5. The prosecution in order to prove its case has examined as many as six witnesses in this case.

6. I have heard Mr. S.S. Mann, learned counsel for the petitioners and Mr. G.S. Hooda, AAG, Punjab and with their assistance have also gone

through the record of the case.

7. The plea of the petitioners was that in fact Kapur Singh petitioner was attacked by the complaint party and he had received certain injuries and

thereafter in right of his self-defence he had caused injuries to Harmail Singh complainant. Kapur Singh petitioner was examined by Dr. Subhash

Gupta. He had received as many as three injuries on his person as is clear from the evidence.

8. Mr. Mann has very fairly conceded that he does not want to assail the impugned judgments on merits and instead prays for leniency towards the

quantum of sentence. In support of his arguments, he has submitted that the occurrence relates to the year 1984. He then submitted that in the

present occurrence Kapur Singh petitioner has also received as many as three injuries and out of the said injuries one is on the head which is a vital

part. The prayer on behalf of the petitioner is thus for reduction of quantum of sentence.

9. On the other hand, the learned State counsel has vehemently argued that the petitioners do not deserve any leniency towards the quantum of

sentence as they have caused as many six injuries to the complaint.

10. I have gone through the judgments of both the Courts below and do not find any illegality or infirmity in the same. So far as merits of the

present petition are concerned, it consequently fails.

11. So far as quantum of sentence is concerned, I find force in the submissions made by the learned counsel for the petitioners. Admittedly, both

the sides have received injuries in this case. Kapur Singh petitioner who has been substantively convicted u/s 326 IPC has also received three

injuries. The occurrence relates to the year 1984. The petitioners by now have already faced the agony of protracted trial of about 19 years. It is

stated at the Bar that the petitioners have remained in custody for some time. Even otherwise a perusal of the record shows that the petitioners

were taken in custody on 30.7.1988 when their appeal was dismissed and the substantive sentence of the petitioners was suspended by this Court

vide order dated 17.8.1988.

12. After giving my thoughtful consideration to all the aspects of the case, I am of the view that the ends of justice would be adequately met if the

substantive sentence awarded to the petitioners is reduced to the period already undergone by them. My observation is fortified by the decisions

rendered in State of Punjab v. Harnam Singh, 2002 (2) RCR(Cri) 507 (DB) and Om Parkash v. State of Haryana, 2001(4) RCR (Cri) 329. It is

ordered accordingly.

13. However, the fine imposed upon Kapur Singh petitioner is enhanced from Rs.500/- to Rs.5,000/-. The fine shall be deposited before the trial

Court within a period of three months from the date of receipt of a certified copy of this order. In default of payment of fine, Kapur Singh petitioner

shall undergo R I for six months. In case the fine is deposited, the same shall be disbursed to injured Harmail Singh at once by the trial Court. So

far as sentence of fine qua two other petitioners namely, Hazura Singh and Bhura Singh is concerned, it would remain the same.

With the modification in the quantum of sentence as indicated above, the present revision petition is dismissed.

Intimation about the result be sent to the trial Court.