

(2009) 02 P&H CK 0234

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 41755 of 2008 and Criminal Appeal No. 2440-SB of 2006

Kamaldeep Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: Feb. 24, 2009

Acts Referred:

- Penal Code, 1860 (IPC) - Section 325

Citation: (2009) 30 CriminalCC 398 : (2011) 8 RCR(Criminal) 1226 : (2009) 2 RCR(Criminal) 719

Hon'ble Judges: Harbans Lal, J

Bench: Single Bench

Advocate: A.P.S. Deol and Mr. Davinderbir Singh, for the Appellant; Manpreet Kaur for Complainant and Mr. Gaurav Garg Dhuriwala, AAG for Respondent, for the Respondent

Judgement

Harbans Lal, J.

This appeal is directed against the judgment dated 16.11.2006/ order of sentence dated 17.11.2006 passed by the Court of learned Additional Sessions Judge, Bathinda whereby he convicted and sentenced Kamaldeep Singh to undergo rigorous imprisonment for a period of 2 years and to pay a fine of Rs. 10,000/- or in default of payment of the same, to further undergo imprisonment for one month u/s 325 of IPC and further convicted Manpreet Singh under Sections 325 and 323 of IPC and released him on probation of good conduct u/s 4(1) of the Probation of Offenders Act and further convicted Rajdeep Singh u/s 323 of IPC and released him on probation of good conduct u/s 4(1) of Probation of Offenders Act and acquitted the accused Raj Bahadur Singh giving benefit of doubt.

2. The facts in brief are that the fight took place between two groups of students in a College. On 28.01.1998 at about 12:30 P.M., complainant Kuldip Kumar and his brother Mandip Kumar were going to the College Canteen. The brick bats were found heaped near the college canteen. The accused Kamaldeep Singh, Manpreet

Singh, Rajdeep Singh and Raj Bahadur Singh were found sitting nearby. On catching sight of the complainant and Mandip Kumar, the accused Manpreet Singh raised talkara that the complainant as well as his brother be not allowed to go Scot free and unhurt. Raj Bahadur Singh grappled with Mandip Kumar, whereas Kamaldeep Singh gave a brick bat blow hitting on the right side of the forehead of Mandip Kumar. Rajdeep Singh and Manpreet Singh advanced towards the complainant Kuldip Kumar. Rajdeep Singh gave the brick bat blow on the forehead of the left side of the complainant, whereas Manpreet Singh gave brick bat blow which hit on the right hand finger of Kuldip Kumar. On being raised alarm, the accused decamped from the spot. This occurrence was witnessed by Kuldip Kumar, his brother Mandeep Kumar and one Navneet Kumar. They were rescued by other college students. The motive behind the occurrence was that the accused Manpreet Singh had earlier teased the cousin sister of Kuldip Kumar complainant to which Mandeep Kumar objected. That incidence was compromised. Due to this enmity, the accused had caused injuries on the person of Mandeep Kumar and Kuldip Kumar. The injured persons were removed to Civil Hospital. In due course, the accused were arrested. After completion of investigation, the charge-sheet was laid in the Court of learned Illaqa Magistrate, who committed the case to the Court of Sessions for trial of the accused.

3. On commitment, the accused were charged to which they did not plead guilty and claimed trial. To bring home guilt against the accused, the prosecution examined PW1 Dr. Pushpinder Kaur, PW2 Dr. Krishan Goyal, PW3 Lovely Garg, PW4 Sohan Singh, PW5 Manoj Kumar, PW6 complainant Kuldip Kumar, PW7 Sub Inspector Roop Singh, PW8 Sub Inspector Amritpal Singh, PW9 Dr. R.K. Kaushal, PW10 Dr. Seema Garg and closed its evidence.

4. When examined u/s 313 of Cr.P.C. all the accused denied the incriminating circumstances appearing in the prosecution evidence against them and pleaded innocence. In their defence, they examined DW1 Shri Yograj, DW2 Jagjit Singh Dhillon, DW3 Baljinder Singh, DW4 Dr. Lakshmi Garg, DW5 Joginder Singh Senior Assistant Punjab School Education Board. DW6 Mukhwinder Singh Chhina, DW7 Sham Lai Pharmacist, DW8 Jatinder Singh, DW9 Gurcharan Singh, DW10 Bhupinder Singh and DW11 Sukhdev Singh. After hearing the learned Additional Public Prosecutor for the State, learned-defence counsel and examining the evidence on record, the learned trial Court rendered the judgment in the terms noticed at the outset. Kamaldeep Singh accused feeling aggrieved with his conviction/sentence has preferred this appeal.

5. I have heard the learned counsel for the parties, besides perusing the record with due care and circumspection.

6. Mr. A.P.S. Deol, Senior Advocate appearing on behalf of the appellant submitted that the parties have reached compromise. The necessary permission to compound the offence may be granted as prayed vide Criminal Misc. No. 41755 of 2008. I have

considered this submission. There is no gain saying the fact that the fight had occurred between two groups of the students in the college. The parties have expressed a desire to live amicably. The incident had taken place in the year 1998 in which both the sides had received injuries as a result of hurting of brick bats. The intention of law is to put an end to the enmity between the parties and to render them to live a peaceful life. After 1998, there seems to be a feeling of forget and forgive between the parties. If the compromise is declined and the appeal on merits entails dismissal, the of sending the appellant to jail may create bad blood.

7. Obviously, in this case Kuldip Kumar and his brother Mandeep Kumar were injured. The compromise Annexure Al entered into between Kuldip Kumar and the appellant has been placed on the record. Mandeep Kumar injured has also made statement in the Court that he has compromised with Kamaldeep Singh son of Sukhdev Singh appellant in this case and does not wish to carry the matter any further and would stick to the compromise. Needless to say, the appellant has been convicted and sentenced u/s 325 of IPC. Clauses 6 and 8 of Section 320 of the Code of Criminal Procedure read as under:

(6) A High Court or Court of Session acting in the exercise of its powers of revision u/s 401 may allow any person to compound any offence which such person is competent to compound under this section.

(8) The composition of an offence under this section shall have the effect of an acquittal of the accused with whom the offence has been compounded.

8. In view of sub-section (8) ibid, the composition of the offence herein shall have the effect of an acquittal of the appellant as the offence has been compounded with him. On the analogy of *Moreshwar v. State of Maharashtra & Anr.*, (2006) 1 SCC (Cri.) 781, in view of the settlement arrived at between the parties, the offence committed by Kamaldeep Singh - Appellant is ordered to be compounded with consequential obligations resulting in his acquittal in terms of clause 8 of Section 320 of the Code of Criminal Procedure.

9. The appeal is disposed of accordingly.