

Sukhdev Singh and Others Vs. State of Punjab

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Court : Punjab and Haryana

Decided On : Aug-13-2013

Appellant : Sukhdev Singh and Others

Respondent : State of Punjab

Judgement :

Criminal Appeal not S-1027-SB of 2000 -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH Criminal Appeal not S-1027-SB of 2000 Date of decision: August 13, 2013 Sukhdev Singh and others ...Appellants Versus State of Punjab ...Respondent CORAM: HON'BLE Mr.JUSTICE INDERJIT SINGH Present: Mr.D.P.S.Kahlon, Advocate, for the appellants.

Mr.Yogesh Gupta, Assistant Advocate General, Punjab, for the respondent-State.

**** INDERJIT SINGH, J.

Appellants Sukhdev Singh, Amarjit Singh, Amarik Singh and Balbir Singh have preferred the instant appeal against the judgment of conviction and order of sentence dated 12.10.2000, passed by Additional Sessions Judge, Ludhiana, vide which, they have been held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- each and in default of payment of fine to further undergo rigorous imprisonment for a period of three months each under Section 342 IPC and rigorous imprisonment for a period of three months each on each count under Sections 323 and 323 read

with Section 34 IPC.

Appellant Sukhdev Singh has also been held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- and in default of Malhotra Mamta 2013.08.29 11:50 I attest to the accuracy and integrity of this document chandigarh Criminal Appeal not S-1027-SB of 2000 -2- payment of fine to further undergo rigorous imprisonment for a period of six months under Section 324 IPC and appellants Amarjit Singh, Balbir Singh and Amrik Singh have been held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- each and in default of payment of fine to further undergo rigorous imprisonment for a period of six months each under Section 324 read with Section 34 IPC.

However, all the sentences were ordered to run concurrently.

The brief facts of the prosecution case are that FIR in the present case has been registered on the statement (Ex.PA) of complainant Bhola Singh, which he got recorded on 20.09.1996 at about 11:00 a.m. The complainant in his statement stated that on 18.09.1996, at about 9:00 p.m., he was returning to his house after supplying milk at the dairy and he was being followed by his brother Jagir Singh and his wife Shahni Devi.

The house of accused Sukhdev Singh was on the way.

When the complainant reached near the house of accused Sukhdev Singh, he found Sukhdev Singh armed with Gandasi and his three brothers namely Amarjit Singh, Amrik Singh and Balbir Singh armed with dangs standing at the house of accused Sukhdev Singh.

When the complainant was in process to cross the house of accused Sukhdev Singh, accused Sukhdev Singh inflicted gandasi blow on the head of complainant, as a result of which he fell down.

When the complainant was lying down, accused Sukhdev Singh inflicted another gandasi blow on his left leg below the knee.

Then accused Amarjit Singh and accused Amrik Singh inflicted dang blows on his head and accused Balbir Malhotra Mamta 2013.08.29 11:50 I attest to the accuracy and integrity of this document chandigarh Criminal Appeal not S-1027-SB of 2000 -3- Singh inflicted a dang blow below the knee of his right leg.

Complainant raised alarm.

Jagir Singh and Shahni Devi tried to save the complainant but the accused dragged the complainant inside the house of accused Sukhdev Singh.

The accused tied the legs and arms of complainant with a rope and continuously inflicted fist blows to him.

They also gave threats to kill the complainant.

Nirmal Singh, Sarpnach, Daljit Singh, Jagir Singh and Shahni Devi came there and rescued the complainant from the accused.

Thereafter, the accused ran away with their respective weapons.

The complainant was medico legally examined on 19.06.1996 at 10:45 p.m.and following injuries were found on his person:- 1.

Incised wound on the parietal bone region measuring 6 x cm.

2. Lacerated wound on the oxipito (sic) measuring 1 x 04 cm.

3. Lacerated wound near the parietal bone.

4. External lacerated wound under right knee joint.

5. Compound fractures (communicated) left leg and incised wound.

After necessary investigation, challan against the accused was presented before the Court.

On presentation of challan, copies of challan and other documents were supplied to accused under Section 207 Cr.P.C.Finding a prima facie case against the

accused, they were charge- sheeted for the commission of offence punishable under Section 364 IPC; accused Amarjit Singh and Balbir Singh were charge- sheeted for the commission of offence punishable under Sections 323 and 326 read with Section 34 IPC; accused Sukhdev Singh was charge- sheeted for the commission of offence punishable under Sections 323 read with Section 34 and 326 IPC and accused Amrik Singh was charge-sheeted for the commission of offence punishable under Sections 323 and 326 IPC read with Section 34 IPC to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined PW1 Bhola Singh, complainant, who deposed as per prosecution version.

PW2 Jangir Singh, brother of complainant, is also an eye witness to the occurrence.

He also deposed the same facts as stated by complainant Bhola Singh (PW1).PW3 Nirmal Singh, Sarpanch, also supported the prosecution version.

PW4 ASI Makhan Singh, Investigating Officer, deposed regarding the investigation conducted by him in the present case.

PW5 Head Constable Jaspal Singh proved the DDR No.10 dated 30.10.1995, lodged at Police Station Raikot (Ex.PH) regarding proceedings under Section 107/151 Cr.P.C.between the complainant and accused.

PW6 Santokh Singh, General Secretary, Shaheed Kartar Singh Sarabha Charitable Trust, deposed that Dr.Jagpal Singh used to work in the hospital of said trust in the year 1996.

He (PW6) is conversant with the handwriting and signatures of Dr.Jagpal Singh.

This witness also deposed that injury report of Bhola Singh Ex.PJ was prepared by Dr.Jagpal Singh.

He (PW6) deposed that Dr.

Jagpal Singh Sandhu remained in the said hospital upto 21.09.1996 and thereafter he became absent.

This witness identified the handwriting and signatures of Dr.Jagpal Singh on the abovesaid report.

PW7 Karamjit Kaur deposed that in the year 1996, she was working as a Staff NuRs.in S.K.S.Charitable Malhotra Mamta 2013.08.29 11:50 I attest to the accuracy and integrity of this document chandigarh Criminal Appeal not S-1027-SB of 2000 -5- Hospital, Sarabha.

She deposed that Dr.Sanjiv Bhagat was working in the said hospital at that time.

She identified his signatures and handwriting on endorsement Ex.PE/1.

This witness also deposed that Dr.

Sanjiv Bhagat is no more working in the said hospital.

At the close of prosecution evidence, the accused were examined under Section 313 Cr.P.C.and confronted with the evidence of prosecution.

The accused denied the correctness of the evidence and pleaded themselves as innocent.

They also pleaded that they have been falsely implicated in the present case.

No evidence was led in defence.

The trial Court, after appreciation of evidence, convicted and sentenced the appellants-accused as stated above.

At the time of arguments, learned counsel for the appellants simply contended that the appellants are innocent.

They have not caused any injury and have been falsely implicated in the present case.

Learned counsel for the appellants also contended in the alternative that the occurrence took place about 16-17 years back and the appellants are the fiRs.offendeRs.therefore, a lenient view be taken and they may be released on probation.

On the other hand, learned State counsel contended that the case of the prosecution has been duly proved by the injured and the eye witnesses.

Therefore, he contended that the appeal, having no merit, should be dismissed.

I have heard learned counsel for the appellants and learned State counsel and with their assistance, I have gone through the evidence on record minutely and carefully.

Malhotra Mamta 2013.08.29 11:50 I attest to the accuracy and integrity of this document chandigarh Criminal Appeal not S-1027-SB of 2000 -6- From the evidence on record, I find that the prosecution has examined PW1 Bhola Singh, injured/complainant, who has supported and corroborated the prosecution version.

PW2 Jangir Singh, who is brother of PW1 Bhola Singh, complainant, has also supported and corroborated the statement of complainant.

PW3 Nirmal Singh, Sarpanch, also consistently deposed regarding the prosecution version.

Keeping in view the statements of PW1 Bhola Singh, PW2 Jangir Singh and PW3 Nirmal Singh, Sarpanch, I find that the prosecution has duly proved the fact that appellants-accused had caused simple injuries to complainant Bhola Singh.

All the said PWs have also duly proved the fact that appellants-accused had illegally confined complainant Bhola Singh in the house and he was got freed by Nirmal Singh, Sarpanch (PW3) etc.The statements of PW1 Bhola Singh, PW2 Jangir Singh and PW3 Nirmal Singh, Sarpanch have been duly supported by the statement of PW4 ASI Makhan Singh, Investigating Officer, and further by the statements of PW6 Santokh Singh and PW7 Karamjit Kaur who have identified the signatures of the doctors on the medical record.

Therefore, from the evidence on record, I find that the trial Court has rightly convicted the appellants-accused as stated above.

As such, the judgment of conviction passed against the appellants is upheld.

As regarding the alternative argument, I find that the occurrence took place about 16-17 years back; the appellants have been convicted only under Sections 323, 324, 342 read with Section 34 IPC and they are the fiRs.offendeRs.therefore, one opportunity Malhotra Mamta 2013.08.29 11:50 I attest to the accuracy and integrity of this document chandigarh Criminal Appeal not S-1027-SB of 2000 -7- should be granted to them to reform themselves.

Keeping in view the facts and circumstances of the present case, the appellants are directed to be released on probation.

They are directed to appear before the trial Court and to furnish probation bonds in the sum of Rs.10,000/- each for six months with the undertaking to keep peace and good behaviour during the said period.

With the aforesaid modification in sentence, the present appeal is partly allowed.

August 13, 2013 (INDERJIT SINGH) mamta JUDGE Malhotra Mamta 2013.08.29 11:50 I attest to the accuracy and integrity of this document chandigarh

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