

(2010) 12 P&H CK 0034

In the Punjab And Haryana At Chandigarh

Case No : CRA No. 351-SB of 2001 (O and M) and CRR No. 840 of 2001

Amarjit Singh and Others

APPELLANT

Vs

State of Punjab
 Surjit Singh and Others Vs Amarjit
Singh and Others

RESPONDENT

Date of Decision : 10-12-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173, 313
Penal Code, 1860 (IPC) — Section 307, 323, 324, 34

Citation : (2011) 1 RCR(Criminal) 736

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Jitendra Chauhan, J.

CRM No. 64169 of 2010

The application is allowed as prayed for, subject to all just exceptions.

CRA No. 351-SB of 2001

1. The present appeal has been directed against the judgment of conviction and order of sentence dated 24.02.2001 (hereinafter referred to as the "impugned judgment") passed by learned Sessions Judge, Fatehgarh Sahib (hereinafter referred to as the "trial Court"), whereby the accused Appellants have been convicted and sentenced as under:

Amarjit Singh Under Section 324 IPC for causing injuries to Surjit Singh Rigorous imprisonment for a period of 1 = years and a fine of Rs. 1000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 3 months

Under Section 324 IPC for causing injuries to Gurdev Singh Rigorous imprisonment for a period of 1 = years and a fine of Rs. 1000/- and in default of

payment of fine, to further undergo rigorous imprisonment for a period of 3 months

Jeet Singh Under Section 324/34 IPC for causing injuries to Surjit Singh Rigorous imprisonment for a period of 1 year and a fine of Rs. 1000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 3 months

Under Section 323 IPC for causing injuries to Harbans Singh Rigorous imprisonment for a period of 6 months and a fine of Rs. 500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 1 month

Gurmel Singh Under Section 324/34 IPC for causing injuries to Surjit Singh Rigorous imprisonment for a period of 1 year and a fine of Rs. 1000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 3 months

Under Section 323 IPC for causing injuries to Surjit Singh Rigorous imprisonment for a period of 6 months and a fine of Rs. 300/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 1 month

Criminal revision No. 840 of 2001 filed by the complainant party is also being disposed of by this judgment.

2. In the prosecution story, briefly stating, the facts of the prosecution case are that on 16.5.1996 at about 6.00 p.m., complainant Surjit Singh was present at the gate of Village Rurki where Gurdev Singh and Gurbax Singh met him and all the three went to the house of Gurdev Singh for having drinks. At about 7.00 p.m., when they were present in the street, accused-Jeet Singh came there and forced Gurbax Singh to accompany him to his house for taking more drinks. On their refusal, some altercation took place and Jeet Singh called accused-Appellants, Amarjit Singh, Gurmel Singh and Mithu, who inflicted injuries on the person of Surjit Singh, and Gurdev Singh. Injuries were also inflicted upon Harbans Singh who came to rescue his brother, Surjit Singh. On their raising alarm, the accused fled away from the spot. Thereafter, the injured were removed to the hospital.

3. On completion of the investigation, final report u/s 173 Code of Criminal Procedure was submitted and the case was committed to the Court of Sessions.

4. Charge under Sections 307, 324, 323 read with Section 34 IPC, was framed against the accused to which they pleaded not guilty and claimed trial.

5. In order to substantiate its case, the prosecution examined as many as eight witnesses, namely, Jatinder Kumar, Medical Officer, who had examined the X-ray films of Surjit Singh and referred the same to Radiology Department, Rajindra Hospital, Patiala, as PW1; Surjit Singh, complainant, as PW2; Harbans Singh, injured, as PW3; Gurdev Singh, injured, as PW4; ASI Onkar Singh, Investigating

Officer, as PW4; Dr. Jagmohan Singh, in whose presence, X-rays of injured Harbans Singh and Surjit Singh, were taken, as PW5; Dr. Jaswant Singh, who identified the signatures of Dr. Madan Singh, who conducted the medico-legal examination of the injured, as PW7. Naib Singh was given up as having been won over.

6. Thereafter the accused were examined u/s 313 Code of Criminal Procedure while putting all the incriminating circumstances against them in the prosecution evidence wherein they denied all the allegations and pleaded innocence. In defence, they produced Major Singh as DW1.

7. After hearing learned Counsel for both the parties, learned trial Court convicted and sentenced the accused- Appellant for the offence and term as indicated in para 1 hereinabove.

8. Learned Counsel for the Appellants has produced a Compromise dated 10.11.2004 (Annexure A-1), reached between the parties whereby the parties, with the intervention of the Panchayat and elders, have compromised the matter.

9. Learned Counsel for the Appellants has informed that Appellant No. 3, Jeet Singh s/o Hazara Singh has since died and, thus, the appeal qua him abates.

10. Appellant No. 1 was ordered to be sentenced to undergo rigorous imprisonment of 1 year and 6 months and Appellant No. 2 was sentenced to undergo rigorous imprisonment for 1 year. The FIR in the instant case was registered on 24.2.2001. The Appellants have suffered protracted trial for about 9 years.

11. In view of the compromise, no purpose would be served in further incarcerating the Appellants.

12. Accordingly, the judgment of conviction is maintained, however, the sentence of imprisonment is reduced to the period already undergone, if any, subject to the deposit of enhanced fine of Rs. 5,000/- each to be paid over and above the fine already imposed by the learned trial Court, in the Court of learned Chief Judicial Magistrate concerned, within a period of three months from the date of receipt of a certified copy of this order. The injured, namely, Gurdev Singh, Harbans Singh and Surjit Singh, appeared in person and stated that they are not interested in receiving the compensation. In the circumstances, the enhanced fine shall be paid to the State as litigation expenses. In case, the enhanced fine is not deposited within the time stipulated, this appeal shall be deemed to be dismissed.

13. In view of the order passed in the appeal, revision petition No. 840 of 2001 also stands dismissed.

14. Since the main appeal is decided as such, the misc. applications pending, if any, shall also stand disposed of.