
(2010) 04 P&H CK 0367
In the Punjab And Haryana At Chandigarh

Angrej Ram and Sukhwinder Singh alias Binder	APPELLANT
Vs	
State of Punjab	RESPONDENT

Date of Decision : 30-04-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161
Penal Code, 1860 (IPC) — Section 302, 307, 323, 324, 34

Citation : (2010) 04 P&H CK 0367

Hon'ble Judges : Sabina, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sabina, J.—Vide this order, the above-mentioned two criminal appeals are being disposed of by a common order as they have arisen out of common judgment dated 16.1.2009 passed by the Additional Sessions Judge, Nawanshahr.

2. Appellants-Angrej Ram and Sukhwinder Singh alias Binder Ram were convicted for an offence under Sections 307 and 324 of the Indian Penal Code (for short "IPC") vide judgment dated 16.1.2009 passed by the Additional Sessions Judge, Nawanshahr. Vide order of even date, the appellant-Angrej Ram was ordered to undergo sentence of rigorous imprisonment for a period of five years and to pay a fine of Rs. 5000/- u/s 307 IPC and appellant-Sukhwinder Ram alias Binder Ram was ordered to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 5000/- u/s 307 read with Section 34 IPC and appellant-Angrej Ram was further ordered to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 1000/- u/s 324 read with Section 34 IPC and appellant-Sukhwinder Singh alias Binder Ram was sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 1000/- u/s 324 IPC by the Additional Sessions Judge, Nawanshahr. Hence, the present appeals by the appellants.

3. The brief facts of the case, as noticed by the learned trial Court, in paras 2 and 3 of its judgment, read as under:

2. The FIR in the present case was lodged at the instance of Roshan Lal son of Ram Kishan, caste Pandit, resident of village Kamam, PS Banga. The gist of his statement (Ex.PF) when translated into English reads as follows:

I am a resident of above mentioned address and my youngest son Umesh Kumar runs a medical store in village Mehmoodpur, where I also sit. Yesterday, i.e. on 25.6.2005, I had gone to the shop of my son. At about 8 P.M., I started back for my home on bicycle. At about 8 P.M. when I was about to proceed towards "katcha" road along the river, then three persons riding a scooter came from the opposite side and surrounded me. I recognized Angrej Sansi son of Gurdas Ram and as well as Binder son of Gian Chand, both residents of village Kamam, but I could not identify the third person. Angrej Sansi was carrying a "Daat" and he gave three blows with the same on my head, out of which one hit on the right side and another on the left side and the third on the left ear. Binder took out a Daggar and gave a blow with the same hitting me on my right jaw. He gave another blow to me and when I lifted my left hand to ward -off the same, it hit me on fingers adjoining thumb. Angrej gave another blow from reverse side of "Daat" hitting me on the finger adjoining thumb of the same hand. The third unidentified person gave several blows with stick, hitting on my left and right side and as well as two blows with stick, hitting on my left and right side and as well as two blows on the left side of my abdomen. He gave another blow on my left shoulder. Angrej gave another blow from the reverse side of "daat" in the middle of my head. In the meantime my son Umesh Kumar came there on motorcycle and who witnessed the entire occurrence in the headlight of the motor-cycle. They threw me in water canal and made good their escape on their scooter. Umesh Kumar telephonically informed my son and thereafter my son Sumesh Kumar came at the spot and who took me in his vehicle to the Civil Hospital Banga, where I am being medically treated. Motive for attacking me is that my son Suman Kumar, who was Panch, had got effected the compromise in some accident case involving Binder, but Binder nursed a grudge that his son had not favoured him. Due to the said grudge, he alongwith his companions has together caused injuries to me. Before the accused left the place of occurrence, they were trying to drown me in water. I have heard my statement, which is correct. Action be taken.

Sd/- Roshan Lal

3. After the injured/complainant Roshan Lal was taken to Civil Hospital, an intimation was sent by the Hospital authorities to the Police and it was in pursuance thereof that ASI Naresh Kumar alongwith other Police officials went to the Hospital and recorded the statement (Ex.PF) of Roshan Lal after obtaining the opinion of the doctor regarding his fitness and on the basis of which the FIR (Ex.PF/1) was lodged. Matter was investigated by the Police, during the course of which, rough site plan of the place of occurrence was prepared. Statements of the witnesses were recorded in terms of Section 161 Cr.P.C. Opinion of the doctor regarding nature of injuries was taken. After completion of investigation, the

challan was presented in the Court of learned Sub Divisional Judicial Magistrate, Nawanshahr on 5.9.2005. The learned Sub Divisional Judicial Magistrate on finding that the facts prima facie disclosed commission of an offence u/s 307, 323, 324, 341, 506/34 of IPC and out of which offence u/s 307 of IPC is exclusively triable by the court of Sessions, accordingly committed the case to this Court, vide commitment order dated 22.9.2005

4. I have heard the learned Counsel for the parties and have gone through the record of the case carefully.

5. Learned Counsel for the appellants have submitted that the appellants were innocent and had been falsely involved in this case. The appellants had not been duly identified by the eye witnesses. The alleged eye witness PW4, son of the injured had reached the spot after the occurrence. Hence, the statement of PW3 without any independent corroboration could not be relied upon. Injuries on the person of PW3 were simple in nature and, hence, offence u/s 307 IPC was not made out in this case.

6. Learned State counsel, on the other hand, has submitted that there were 15 injuries on the person of injured PW3. A perusal of the injuries shows that the offence u/s 307 IPC was made out in this case.

7. PW1 Dr. Manohar Lal found the following injuries on the person of PW3-injured Roshan Lal:

1. Incised wound 2.5 x 0.3 x 0.8 cm. deep on the right side of lower border of mandible. 4.5 cm anterior to angle of mandible. Fresh blood clots were present. On removing clots, bleeding occurs. Advise x-ray.

2. Incised wound 5 x 0.5 x 0.6 cm. deep on the right side of scalp. Oblique, anterior end 4.5 cm. above the outer end of right eye brow 5.5. cm. From midline from here it runs back and onwards. Fresh blood clots present. Margins are reddish. Advise x-ray.

3. Incised wound 5.5. x 0.5 x 0.6 cm deep transfers on the top of scalp. Inner end 1 cm. from midline over lying the line joining both the pinna. Margian are reddish. Fresh blood was present. Advised x-ray.

4. Incised wound 4 x 0.5 x 1 cm. deep on the left side of scalp, 6 cm. above the top of right left pinna. Margins are reddish. Fresh blood clots were present. Advised x ray.

5. Reddish contusion 5 x 3 cm. on the back of left side of upper chest 4 cm from midline, 5.5. cm. below the top of chest. Advised x-ray.

6. Red abrasion 3 x 0.5 cm. on the back of mid of left side of chest, 7 cm from the midline, 22 cm below the top of chest. Advised x-ray.

7. Red abrasion 15 x 0.4 cm. Oblique on the back and outside of left side of lower half of trunk. 8 cm above the top of Iliac crest. Advised x-ray.

8. Reddish contusion 13 x 1.2 cm oblique on the back of right side of chest. Oblique inner end on the midline 4 cm below the base of neck runs out and backwards. Advised x-ray.

9. 4 red abrasions 5 x 0.2, 3 x 0.2, 6 x 0.2, 4 x 0.2 cm on the top of left shoulder and chest. Advised x-ray.

10. Incised wound 1.5 x 0.5 x 0.6 cm deep on the front and inner side of proximal phalanx of left thumb near MP joint. Blood clots were present. Advised x-ray.

11. Incised wound 2 x 0.4 x 1 cm. deep on the front and on outside of mid part of middle phalanx of left index finger. Blood clots were present. Advised x-ray.

12. Incised wound 1 x 0.3 x 0.3 cm on the front of proximal phalanx proximal end of middle finger of left hand. Fresh blood clots were present. Advised x-ray.

13. Red abrasion 1.5 x 0.5 cm on the outer side of digital interphalangeal joint of ring finger of left hand. Advised x-ray.

14. Incised wound 1.5 x 0.2 x 0.3 cm on the front end and inner of proximal part of proximal phalanx of little finger of left hand. Advised x-ray. Blood clots were present.

15. Lacerated wound 2 x 0.3 x 0.3 cm deep on the midline of scalp anterior end 12 cm, above the nasion point. Blood clots were present. Advised x-ray.

8. As per the said witness, all the injuries were declared simple in nature. Injuries No. 1 to 4, 10, 11, 12 and 14 were by sharp edged weapon, whereas, the rest of the injuries were with a blunt weapon.

9. PW3, injured Roshan Lal deposed that on 25.6.2005 at about 8.30 PM, he was going on his bicycle from village Mehmoodpur. He was attacked by Angrej Ram armed with "Dattar" and Binder armed with a "Dagger". Appellants were with muffled faces but their cloth slipped and consequently, the witness could see their faces. Appellant-Angrej Ram gave two blows on the head of the injured, whereas, appellant Binder gave a dagger blow on the left hand of the injured. They also caused injuries on his face and the other parts of the body. 3. PW4 Umesh Kumar has also corroborated the statement of

10. PW3 and has deposed that he had identified the accused with the help of light of motor cycle.

Section 307 IPC reads as under:

307 Attempt to murder.-Whoever does any act with such intention or knowledge, and under such circumstance that, if by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to [imprisonment for life], or to such punishment as is hereinbefore mentioned.

11. In the present case, the ocular version is duly corroborated by the medical evidence. The injured PW3 has suffered as many as 15 injuries. Although the injuries are simple in nature yet the fact remains that the injuries have been caused on the mandible, head, chest (front and back) lower half of trunk, left hand of the injured. Out of 15 injuries, 5 injuries are on the left hand of the injured, whereas, other 10 injuries are on the head chest and lower half of the trunk. 8 injuries on the person of PW3 are with a sharp edged weapon, whereas, the remaining injuries are with blunt weapon. From the nature of injuries suffered by injured PW3, it is evident that the appellants had the knowledge as well as the intention that if they had caused death, they would have been guilty of murder. Although the nature of injuries are simple yet the fact that the injured has suffered numerous injuries leads to the inference that both the appellants are guilty of an offence u/s 307 IPC.

12. In the present case, motive is not so relevant as the injured PW3 Roshan Lal has categorically deposed with regard to the injuries inflicted by the appellants on his person and his ocular version is duly corroborated by medical evidence. PW3 Roshan Lal had no reason to falsely involve the appellants in this case and shield the real culprit. Statement of PW3 being natural, inspires confidence. In these circumstances, the learned trial Court had rightly convicted and sentenced the appellants u/s 307 IPC. Admittedly, the appellants have also been convicted for an offence u/s 302 IPC in another FIR and in these circumstances, no ground for reduction of sentence qua imprisonment is made out in this case.

Dismissed.