
(2009) 04 P&H CK 0133
In the Punjab And Haryana At Chandigarh

Balwinder Singh @ Teela and Others	APPELLANT
Vs	
State of Punjab	RESPONDENT

Date of Decision : 23-04-2009

Acts Referred:

Penal Code, 1860 (IPC) — Section 323, 326, 34, 506

Citation : (2009) 04 P&H CK 0133

Hon'ble Judges : Sabina, J

Bench : Single Bench

Judgement

Sabina, J.—Vide judgment and order dated 16.11.1999 passed by the Judicial Magistrate 1st Class, Moga, petitioners were convicted and sentenced as under:

Balwinder Singh To undergo rigorous imprisonment under Section 326 IPC for two years and to pay a fine of Rs. 500/ - or in default of payment of fine to undergo R1 for one month Bikkar Singh, Bachittar Singh and To undergo rigorous imprisonment Nachattar Singh for two years and to pay a fine of under Section 326/34 IPC Rs. 500/ - each or in default of payment of fine to undergo R1 for one month each. Balwinder Singh, Bikkar Singh, To undergo rigorous imprisonment Bachittar Singh and Nachattar Singh for one year each. under Section 323 IPC and Under Section 323/34 IPC Balwinder Singh, Bikkar Singh, To undergo rigorous imprisonment Bachittar Singh and Nachattar Singh for one year each. under Section 506 IPC

All the sentences were ordered to run concurrently. Aggrieved by the same, the petitioners preferred an appeal and the same was dismissed vide judgment dated 5.12.2001 by the Additional Sessions Judge, Moga. Hence, the present revision petition.

2. Prosecution case, as noticed by the Appellate Court in para 2 of its judgment, is reproduced herein below:

In brief the case of the prosecution is that Darshan Singh son of Hari Singh resident of village Himmatpura made a statement to the police that he is a

Member Panchayat. On 6.1.1996, at about 7 p.m. he along with his friend Budh Singh were coming back to their village on cycle after purchasing some karyana goods from Mandi Bhadaur. When they reached in the revenue estate of their village, they saw all the accused standing near a tractor trolley and at that time Balwinder Singh accused was armed with kirpan, Bikkar Singh was armed with gandasa, Nachattar Singh was armed with dah and accused Bachittar Singh was armed with gandhali. All these accused were residents of village Himmatpura. Accused Balwinder Singh raised lalkara that Darshan Singh member be taught a lesson for not playing their tape recorders in loud voice. At this, accused Balwinder Singh gave kirpan blow which hit upon the left arm of the complainant. The accused Nachattar Singh gave the dah blow which hit upon his back of right side below the shoulder joint. Bikkar Singh gave gandasa blow from its reverse side which hit upon his back of the chest. Then the complainant fell down on the ground. Then Bikkar Singh gave gandhali blow which hit upon his elbow joint of right arm. Complainant raised alarm "mar ditta mar ditta" but accused continued giving blows upon his person with their respective weapons. Budh Singh who was present at the spot tried to save the complainant but in vain. After giving injuries to the complainant, accused ran away from the scene of occurrence with their respective weapons on tractor trolley and threatened Budh Singh that if he deposed about this incident to any one, accused will also teach lesson to him. Budh Singh brought the complainant/injured to his house on cycle. He could not get himself medically examined on 6.1.1996 due to night time and non availability of conveyance. On 7.1.1996 Botta Singh, his cousin brother got him admitted in the Civil Hospital, Nihar Singh Wala, where he was medico legally examined. Motive behind the Member Panchayat used to stop Balwinder Singh accused from playing the vulgar cassettes and due to this, all the accused with common intention caused injuries to him. ON this statement of the complainant, case u/s 326/323/506/34 IPC was registered against the accused. During investigation accused were arrested and after completion of necessary investigation, challan against the accused was presented in the learned trial Court.

3. I have heard learned Counsel for the parties and have gone through the record available on the file carefully.

4. Occurrence in the present case had taken place on 6.1.1996 at about 7.00 p.m. Complainant along with Budh Singh were returning to their village on bicycle. They were attacked by the accused party. Balwinder Singh-petitioner No. 1 was armed with kirpan and he raised a lalkara that Darshan Singh be taught a lesson for stopping their tape recorders. He gave a kirpan blow on the left arm of the complainant. Petitioner No. 4- Nachattar Singh, who was armed with dah, gave a blow on the below right shoulder of the complainant. Petitioner No. 2- Bikkar Singh, who was armed with gandasa, gave a blow on the back of the complainant from its reverse side. Bikkar Singh also gave a gandhali blow on the right elbow joint of the complainant. In order to prove its case, prosecution examined complainant Darshan Singh as PW-3, who fully supported the

prosecution case. Budh Singh-PW-4 has corroborated the statement of the complainant. The statements of the complainant as well as eye witnesses are duly corroborated by the medical evidence. The complainant had suffered as many as nine injuries at the hands of the accused, which are as under:

1. An incised wound 3, ? cm x 0.5 cm on the medial side left arm 9 cm above the left wrist joint, no fresh bleeding was present and x-ray was advised.
2. An abrasion 12 x 6 cm on the back of right side placed obliquely 11 cm before the shoulder joint. Advised X-ray.
3. An abrasion 21 cm x 2 cm on the back of the chest 26 cm below the lower aspect of neck, placed obliquely. Advised X-ray.
4. An abrasion 3 cm x 1 cm on the back of right elbow joint.
5. An abrasion ? cm x ?cm on the back of right elbow joint 3 cm before the injury No. 4.
6. An abrasion 3 cm x 1, ? cm on the posterior aspect of left elbow.
7. An abrasion 2 cm x 1 cm on the lateral aspect of left fore arm.
8. An abrasion 3 cm on the anterior aspect of left knee joint.
9. An abrasion 3 x ? cm on the left side of face 3 cm from the nose.

5. Injury No. 1 was opined to be grievous in nature, whereas, remaining injuries were opined to be simple in nature. The statement of DW-1 Surender Singh fails to rebut the testimony of the complainant and witness Budh Singh with regard to occurrence as the said witness never moved any complaint regarding false involvement of the petitioners in this case. The said witness belongs to the village of the petitioners and has apparently deposed in favour of the petitioners to help them. In these circumstances, the learned trial Court has rightly convicted the petitioners under Sections 326, 323/34 and 506 IPC. The same has been rightly upheld by the Appellate Court. However, keeping in view the facts and circumstances of this case and the fact that the petitioners are facing criminal proceedings since the year 1996, it would be just and expedient to reduce the sentence qua imprisonment from two years u/s 326 IPC and one year u/s 323 and 506 IPC to rigorous imprisonment for six months. With this modification, the present revision petition is disposed of.