
(2000) 08 P&H CK 0140
In the Punjab And Haryana At Chandigarh
Case No : Criminal Revision No. 207 of 1988

Harchand Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 04-08-2000

Acts Referred:

Citation : (2000) 4 AICLR 165 : (2000) 4 RCR(Criminal) 541

Hon'ble Judges : A.S.Grag, J

Advocate : Mr. Karamjit Verma, Advocate. Mr. Vikas Cuccria, AAG, Punjab.,
Advocates for appearing Parties

Judgement

A.S. Garg, J.

1. On 1.6.1985, at about 8 P.M. Kuldip Singh went to his house, which is on rent with the tenants, to recover the rent. When he reached there he found the three petitioners sitting in the street in front of the house. At that time Harchand Singh petitioner was armed with a Tangli, Sarabjit Singh petitioner with a Gandasi and Balwant Singh petitioner with a stick. On the lalkara raised by Harchand Singh, Sarabjit Singh gave a Gandasi blow to Kuldip Singh on his left thumb. Kuldip Singh raised alarm which attracted Pritam Singh and Karam Singh at the spot. Harchand Singh petitioner gave a Tangli blow to Kuldip which he warded off with his left hand thereby causing injury to it. Kuldip Singh fell down and thereafter Sarabjit Singh and Balwant Singh petitioners inflicted injuries to him with their respective weapons. He was rescued by Pritam Singh, Karam Singh and others.

2. Kuldip Singh, PW.2, was medicolegally examined by Dr. K.L. Kapoor, PW.1 on 1.6.1985 at 11.00 A.M. and the following injuries were found on his person :

- 1) Incised wound 20 cm x 1/2 cm x 1 cm on palmer surface of left hand at the base of thumb, whole of the thumb is swollen and reddish in colour.
- 2) Abrasion 1 1/2 cm x 1 cm on back of left thumb just above the nail.
- 3) Reddish contusion 8 cm x 2 cm on lateral surface of left shoulder.

- 4) Abrasion 1 cm x 3/4 cm on back of left middle finger in its middle part.
- 5) Reddish contusion 10 cm x 2 cm on front of middle of left thigh.
- 6) Reddish contusion 8 cm x 2 cm on lateral surface of left knee.
- 7) Abrasion 5 cm x 1/4 cm on front of lower part of right thigh.
- 8) Reddish contusion 15 cm x 2 cm on lateral surface of back of right knee.
- 9) Abrasion 2 cm x 1 cm on back of left ring finger in its proximal part.

Injury No. 1 after Xray was found to be grievous whereas the rest of the injuries were simple in nature. Ex.PA is the copy of the medicolegal report.

3. The occurrence took place because of a dispute relating to inheritance which was to be decided in relation to the execution of a will. The petitioners were put to trial and Sarabjit Singh was convicted under Section 326 of the Indian Penal Code whereas Harchand Singh and Balwant Singh were convicted under Sections 326/34 of the Indian Penal Code and were sentenced to undergo rigorous imprisonment for 11/2 years and to pay a fine of Rs. 150/ each. In default of payment of fine they were ordered to undergo further rigorous imprisonment for two months. Harchand Singh and Balwant Singh were convicted under Section 323 of the Indian Penal Code and Sarabjit Singh was convicted under Section 323/34 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for six months. The sentences of imprisonment under both the counts were ordered to run concurrently. However, the learned Additional Sessions Judge in his judgment observed that only one of the injuries on the person of Kuldip Singh was grievous in nature and that too on a thumb which is a nonvital part of the body and afforded them the benefit of Probation of Offenders Act. The petitioners were further ordered to pay a sum of Rs. 15000/ as compensation to the injured.

4. Despite that, the petitioner have come up in revision and have claimed that the total prosecution of the petitioners was a mala fide act and in fact no such occurrence took place. It was further claimed that since important question of inheritance of property was pending between the parties, therefore, they have been implicated falsely in this case. On a close scrutiny of evidence, it is apparent that there has been a delay of two days in lodging the first information report despite the fact that Kuldip Singh did not suffer any injury which could make him unconscious to disable him from making any statement. Karam Singh, the alleged eye witness has not been produced in Court in support of the prosecution version. Pritam Singh, PW3, is a close relation of Kuldip Singh. The Medical Officer was not put to any clarity as to whether injury No. 1 which is the only material injury could be caused by a blunt weapon. Moreover, it was darkness at the time of occurrence and it could also have been difficult to identify the assailants. Looking to all these circumstances it appears that the story of the prosecution has not been sufficiently substantiated. Hence, the revision is allowed and the petitioners are acquitted of the charges framed against them.

Revision allowed.