
(2006) 03 P&H CK 0006
In the Punjab And Haryana At Chandigarh
Case No : Criminal Appeal No. 681-SB of 2002

Ladha Singh and Others

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 09-03-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 149, 304

Citation : (2006) 3 RCR(Criminal) 669

Hon'ble Judges : M.M. Aggarwal, J

Bench : Single Bench

Advocate : Amit Dhawan, Mr. G.S. Gill and Mr. Ashok Khichi, for the Appellant;
J.S. Dhillon, D.A.G., Punjab, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Aggarwal, J.—This is an appeal against judgment and order dated 9.4.2002 passed by Additional Sessions Judge, Ferozepur whereby accused- appellants were convicted for the offence under Sections 304 (Part II)/325/324(1)/323/148 read with Section 149 IPC and were sentenced as follows :-

(1) Accused Tehal Singh :

(i) was sentenced to undergo RI for 10 years and to pay a fine of Rs. 500/- or in default of payment of fine to further undergo RI for one month only u/s 304 (Part II) IPC.

(ii) He was also sentenced to undergo RI for one year and to pay a fine of Rs. 500/- and in default of payment of fine to further undergo RI for one month under Sections 325 IPC read with Section 149 IPC.

(iii) He was also sentenced to undergo RI for one year for offences punishable u/s 324 IPC read with Section 149 IPC.

(iv) He was also sentenced to undergo RI for six months for an offence punishable u/s 323 IPC read with Section 149 IPC.

(v) He was also sentenced to undergo RI for six months for an offence punishable u/s 148 IPC.

(2) Accused Mehal Singh, Jita Singh, Desa Singh, Ladha Singh, Gurnak Singh son of Inder Singh, Kashmir Singh son of Buta Singh and Kashmir Singh son of Sandhu Singh :

(i) were all sentenced to undergo RI for three years each for an offence punishable u/s 304 (Part II) read with Section 149 IPC.

(ii) They all were also sentenced to undergo RI for one year each and to pay a fine of Rs. 500/- each or in default of payment of fine to further undergo RI for one month each for an offence punishable u/s 325 IPC read with Section 149 IPC.

(iii) they all were also sentenced to undergo RI for six months each for an offence punishable u/s 324 IPC read with Section 149 IPC.

(iv) They all were also sentenced to undergo RI for one year each for an offence punishable u/s 323 IPC (individual) for their causing injuries to the injured witnesses;

(v) They all were also sentenced to undergo RI for six months each for offence punishable u/s 148 IPC.

(3) Accused Kala Singh

(i) was sentenced to undergo RI for three years for an offence punishable u/s 304 (Part II) IPC read with Section 149 IPC.

(ii) He was also sentenced to undergo RI for one year and to pay a fine of Rs. 500/- and in default of payment of fine to further undergo RI for one month for offence punishable u/s 325 IPC read with Section 149 IPC.

(iii) He was further sentenced to undergo RI for one year for an offence punishable u/s 324 IPC (Individual)

(iv) He was further sentenced to undergo RI for six months u/s 323 IPC read with Section 149 IPC; and

(v) He was also sentenced to undergo RI for six months for offence punishable u/s 148 IPC.

(4) Accused Joginder Singh

(i) was sentenced to undergo RI for three years u/s 304 (Part II) IPC read with Section 149 IPC.

(ii) He was further sentenced to undergo RI for two years and to pay fine of Rs. 1,000/- and in default of payment of fine to further undergo RI for two months u/s 325 IPC (Individual).

(iii) He was also sentenced to undergo RI for six months for offence punishable u/

s 324 read with Section 149 IPC.

(iv) He was further sentenced to undergo RI for six months for an offence punishable u/s 323 IPC (Individual).

(v) He was also sentenced to undergo RI for six months for an offence punishable u/s 148 IPC.

2-3. Prosecution case against the accused-appellants is that on 16.9.1994 at about 7.00 p.m. Giano Bibi wife of Kashmir Singh accused came to Sandhu Singh and demanded share of the land to be given to her husband Kashmir Singh. Sandhu Singh, father of Teja Singh refused to oblige her on which she left for the house of her parents. After a short while, Ladha Singh armed with a dang, his son Mehal Singh armed with dang, Tehal Singh armed with a gandasi, Kala Singh armed with a gandasi, Kashmir Singh, Dessa Singh and Lahora Singh, all sons of Buta Singh, armed with dangs, Gurnam Singh son of Inder Singh armed with Dang and some others reached there while raising lalkara that they would teach a lesson to Teja Singh for not giving due share of the land to their daughter Giano Bibi and attacked them. Tehal Singh inflicted a gandasi blow, which hit complainant's mother, Dano Bibi on her head. Two dang blows were given by Ladha Singh hitting Wazir Singh, one on the head of left side and the right on his right upper shoulder. Gurnam Singh inflicted dang blow, which hit Wazir Singh on his head in the right side and further dang blow was given by Mehal Singh, which hit Wazir Singh on his right leg. Accused Kala Singh gave gandasi blow, which hit Teja Singh on his head and further dang blow was given by Kashmir Singh, which hit Teja Singh on the back side. Another gandasi blow given by Kala Singh hit the complainant on his left shoulder. Accused Joginder Singh also reached there on tractor. He had exhorted the other accused. Desa Singh gave a dang blow, which hit Sandhu Singh on his right hand. Lahora Singh also hit Sandhu Singh in his back. Joginder Singh tried to attack Baggu Singh by running him over under his tractor as a result of which he received multiple injuries including the fracture of his right arm. Tractor had struck against a nearby wall and turned turtle. When Raula was raised then accused had run away.

4. The case was registered on the statement of Teja Singh for the offence under Sections 304/325/324/323/148 read with Section 149 IPC against 13 persons. They also faced trial. However, the trial Court found the case against Bagicha Singh and Gurnam Singh son of Mehal Singh not proved. They were acquitted. All other eleven accused-appellants were convicted and sentenced as aforesaid. Hence this appeal.

5. Counsel for the appellants had argued that eight of the appellants had been also injured whereas out of the complainant party only five had been injured. It was argued that police was partial in investigation and the complainant party was not challaned. It was pointed out that Dano Bibi deceased had only one injury, which was by gandasi attributed to Tehal Singh. It was argued that all other appellants had been falsely involved.

6. Doctor Som Dutt Sood, PW-1, who had medically examined Wazir Singh, Teja Singh and Sandhu Singh of the complainant party, and had proved the injuries on their persons, was cross-examined by the counsel for the accused. During cross-examination, it came out that out of the accused Kashmir Singh, Teja Singh, Jita Singh, Bagicha Singh, Gurnam Singh, Ladha Singh, Joginder Singh and Giano Bibi had also injuries on their persons. It will show that these accused at least were present at the spot. PW-8 Doctor P.S. Bhatti had proved injuries on the person of Babu Singh PW. Teja Singh on whose statement, case was registered, appeared as PW-9. Out of the injured, Sandhu Singh, Baggu Singh and Wazir Singh appeared as PWs 10, 11 and 14. Doctor Surinder Kinra PW-12 had conducted post-mortem on the dead body of Dano Bibi and had found one injury. In spite of lengthy cross-examination, the cross-examination, the statements of injured eye-witnesses inspired confidence.

7. Counsel for the appellants had lastly argued that keeping in view the fact that the occurrence had taken place as far back as in the year 1997 and appellants had faced trial as accused in the Court for quite a long time, a lenient view be taken.

8. I find that fatal injury to Dano Bibi had been attributed to Tehal Singh. Tehal Singh had been sentenced to undergo RI for 10 years and to pay a fine of Rs. 5,000/-, in default of payment of fine, he was to undergo RI for one month for the offence u/s 304 (Part II) IPC. Taking into account the facts and circumstances of the case, substantive sentence of imprisonment of accused Tehal Singh is reduced from ten years to five years for the offence u/s 304 (Part II) IPC whereas all other sentences including fine of Tehal Singh for other offences are maintained.

9. All other accused except Tehal Singh had been sentenced to maximum imprisonment to undergo RI for three years for the offence u/s 304 (Part II) IPC read with Section 149 IPC whereas for the offence under Sections 325/324/323/148 read with Section 149 IPC accused-appellants had been sentenced to various imprisonments and maximum imprisonment was for one year only.

10. Other accused-appellants except Tehal Singh had remained in custody for two months. It will not be proper to send them to jail at this stage. The heirs of the deceased can very well be compensated. Under these circumstances, it is directed that appellants except Tehal Singh shall be liable to deposit Rs. 5,000/- as compensation for payment to the heirs of Dano Bibi deceased. This compensation be deposited within a period of three months from today in the Court of CJM, Ferozepur. In case the amount is deposited, sentence of imprisonment of all other accused except Tehal Singh shall stand reduced to the period already undergone by them. In case, they fail to deposit the amount then they shall be liable to undergo the remaining period of sentence.

Appeal stands dismissed with abovesaid modification regarding sentence.

Appeal dismissed.