
(2010) 04 P&H CK 0061
In the Punjab And Haryana At Chandigarh

Sandeep Singh and Others, Raju and Another and Sunil Kumar

APPELLANT

Vs

State of Punjab etc.

RESPONDENT

Date of Decision : 20-04-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 148, 149, 307, 323, 324

Citation : (2010) 04 P&H CK 0061

Hon'ble Judges : Sabina, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Sabina, J.—Vide this judgment the Crl. Appeal No. 855-SB of 2007, Crl. Appeal No. 859-SB of 2007 and Crl. Revision No. 1328 of 2007 would be disposed of as they have arisen out of the same judgment.

2. Learned Sr. Counsel for the appellant Raju has submitted that the appeal qua appellant Raju be dismissed as withdrawn as he has undergone the sentence.

3. Appeal qua appellant Raju is dismissed as withdrawn.

4. Appellants were tried for an offence under Sections 307/324/427/323/148/149 of Indian Penal Code (in short "I.P.C.") in an FIR No. 138 dated 28.6.2005, registered at Police Station Shahkot. Vide judgment dated 30.3.2007 appellants were convicted for an offence under Sections 148/307/324/323 of IPC. Vide order of the even date the appellants were sentenced to undergo imprisonment for one year u/s 148 IPC each. Appellants were further sentenced to rigorous imprisonment for five years and to pay a fine of Rs. 3,000/- u/s 307 IPC each. Appellants were further sentenced for one year u/s 324 IPC each. Appellants were further sentenced for six months u/s 323 IPC. All the sentences were ordered to run concurrently. Hence, the appellants have filed the appeals whereas the complainant has filed the revision petition for enhancement of sentence.

5. The case of the prosecution story in brief as noticed by the learned Sessions Judge in para 2 of its judgment reads as under :

The present case was registered on the statement of Sunil Kumar according to whom he is resident of Mohalla Bawan Shahkot and is doing the business. He has got three sons. The eldest is Ripudaman, younger to him is Saleshe Kumar and the youngest is Salil. Yesterday i.e. on 27.6.05 at about 8 P.M. he alongwith his son Salil Kumar on their scooter No. PAX-4301, Mark Vespa had gone to the Bazar at Shahkot for making some purchases. At Ramgarhia Chowk near Gurdwara Singh Sabhha he stopped his scooter and made him on to have a watch on the scooter, went to purchase vegetables from a Rehri when Sandeep Singh Sidhu, Pardeep Singh Sidhu son of Balwinder Singh r/o Saidpur who runs the shop of Television and Cassetts came out. Sandeep Singh was armed with kirpan, Pardeep Singh also armed with kirpan, Tajinder Singh @ Vicky armed with kirpan, Raju r/o shahkot armed with Dat, Balwinder Singh s/o Sudagar Singh r/o Saidpur, empty handed alongwith 4-5 persons armed with Hockey sticks and iron rods and sotas. Balwinder Singh Sidhu raised Lalkara that they should be caught hold and they would be taught a lesson for defaming their shop and in order to kill us, they attacked us. Sandeep Singh gave a kirpan blow to his son Salil Kumar which hit on the left side of his head. Pardeep Singh Sidhu gave a kirpan blow to his son Salil Kumar which hit on the right side of his mouth Tajinder Singh @ Vicky gave a kirpan blow which hit his son Salil Kumar on the left side of forehead above the eye brow. Raju gave a dater blow which hit on the hand joint of his son. Sandeep Singh gave a second blow of his kirpan which hit on the little finger of his left foot. I raised raula of Mar-Ditta, Mar Ditta and stepped forward to save my son. The accused also attacked him with an intention to kill me. Pardeep Singh Sidhu gave a kirpan blow to him and when he tried to ward off the blow, it hit on the index finger of left hand. Sandeep Singh attacked him with his kirpan which hit on his head. Pardeep Singh got freed the handle of his kirpan and attacked him which hit on the left side of his head. Sandeep Singh gave another kirpan blow which hit in the middle of his head. Tajinder Singh @ Vicky gave a kirpan on the left side of his head, which hit on the left side of his eyebrow. The above named accused and their companions gave injuries to him and his son. They both smeared with blood and fell down. In the meantime, Sunny Dhand Sukhwant Singh alongwith other shop keepers came forward and all the accused fled away with their respective weapons. Thereafter, Deepak s/o Dharam Pal made arrangement for conveyance and took him to Civil Hospital, Shahkot where they were given first aid and sent him to D.M.C. Ludhiana.

The motive behind the occurrence is that his son Salil Kumar had purchased Cassetts from Pardeep Singh and Sandeep Singh which were returned on account of duplicate but they had not returned the money and they had given slaps to his son Salil Kumar and made him to run from the shop and they were saying that we had defamed their shops and on account of that they had given injuries to him and his son and had broken his scooter. Necessary action be taken.

6. Learned Counsel for the remaining appellants have not challenged the conviction of the appellants under Sections 148/307/324/323 IPC, but have submitted that the sentence qua imprisonment be reduced to already undergone by the appellants. Learned Counsel for the appellants have further submitted that so far as appellant Balwinder Singh is concerned he was empty handed at the time of alleged occurrence and had raised a Lalkara. The said appellant has undergone more than 8 months of actual sentence. So far as the other appellants are concerned they are in custody since the day of their conviction vide impugned judgment dated 30.3.2007. The said appellants had also remained in custody for some period during trial. Learned Counsel for the appellants have further submitted that initially the doctor has opined that the injuries on the person of the injured were simple in nature. P.W. 1 Dr. Dharampal had deposed that injuries nos.1 and 6 on the person of Sunil Kumar could be dangerous of life. Injury No. 1 on the person of Sunil Kumar is on the left parietal region of skull whereas injury No. 6 is on the knuckle of the middle finger of left hand. P.W.1 in his cross examination deposed that he had not given any specific opinion that the injuries on the person of Sunil Kumar were sufficient to cause death in the ordinary course of nature.

7. Learned Counsel for the complainant, on the other hand, has submitted that the sentence of imprisonment was liable to be enhanced.

8. In view of the submissions made by the learned Counsel for the appellants and the nature of injuries suffered by the injured, it would be just and expedient to reduce the quantum of sentence to already undergone by the appellants.

9. So far as appellant Balwinder Singh is concerned, he is attributed Lalkara and was empty handed at the time of alleged occurrence. He has undergone about eight and a half months of actual sentence. So far as other appellants are concerned they have all undergone more than three years of actual sentence. Accordingly, the conviction of the appellants, namely, Sandeep Singh, Balwinder Singh, Tajinder Singh & Pardeep Singh is maintained. However, their sentence qua imprisonment is reduced to already undergone by them. Appellants are directed to deposit the fine imposed by the trial Court, if not already deposited, within two months from today, failing which both the appeal shall stand dismissed.

10. Both the appeals stand disposed of accordingly and consequently the criminal revision petition is dismissed.