
(2006) 08 P&H CK 0211
In the Punjab And Haryana At Chandigarh

State of Punjab

APPELLANT

Vs

Mohinder Singh and Others
 Mohinder Singh and
Others Vs State of Punjab

RESPONDENT

Date of Decision : 22-08-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 148, 149, 323, 324, 325

Citation : (2006) 08 P&H CK 0211

Hon'ble Judges : H.S. Bedi, Acting C.J.;Ranjit Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

H.S. Bedi, Acting C.J.—This order will dispose of Criminal Appeal No. 219 -DBA of 1995, Criminal Appeal No. 628-SB of 1995 and Criminal Revision No. 89 of 1995 along with several other Miscellaneous matters.

2. The facts giving rise to these appeals and revision along with several other Misc. matters are as under:

On 19.10.1989, Baldev Singh and Gurmail Singh, both residents of village Panj Grain Kalan were returning from the market at about 7.30 P.M. and as they had reached near the house of master Hakam Singh, they saw all the accused variously armed standing closely. Bikkar Singh hit Baldev Singh with a Gandasa, whereas Joginder Singh and Gura Singh hit Baldev Singh with their dangs on his right hand and right leg respectively, Amar Singh hit Baldev Singh on his right arm below the shoulder and gave another blow near the right shoulder, whereas Lachhman Singh hit Baldev Singh on his right arm and on the right eye. Gurmail Singh raised a raula whereupon Mohinder Singh hit Gurmail Singh with a gandasa near the thumb, Raja Singh caused several injuries to Gurmail Singh on his left arm and Hukam Singh on his back. On hearing the raula, Bachan Singh, Maghar Singh and Baldev Singh son of Harnek Singh reached the spot, on which, the accused ran away with their weapons. The cause of the dispute was that Baldev Singh injured used to help Mistry Baldev Singh in his land dispute with

Mohinder Singh accused. The injured persons were removed to the Civil Hospital, Kotkapura, where their medico legal examination was conducted and a ruqqa Ex.PA along with the MLRs was sent to the police station. ASI Harbans Lal reached the hospital and recorded the first information report Ex.PA/1 at the instance of Baldev Singh. On the completion of the investigation, the accused were charged for offences punishable under Sections 326, 325, 324, 323 and 148 read with Section 149 IPC to which they pleaded not guilty and claimed trial.

3. The trial Court relying on the statements of Baldev Singh PW1 and Gurmail Singh PW2, the two injured eye witnesses, supported by Dr. Pawittar Kaur PW3, Dr. M.L. Gambhir PW4 and the Investigating Officer ASI Harbans Lal PW5, held that the prosecution case stood proved against the accused. However, relying upon the statements of Dr. Pawittar Kaur PW3 and Dr. J.S. Dalal DW1 of the Forensic Science Department, Medical College, Faridkot held that injury No. 1 on the person of Gurmail Singh injured was not grievous in nature, as the cut in the arm did not correspond to the fracture of the bone beneath it and as such a case u/s 326 IPC was not made out against any of the accused. The trial court convicted all the accused under Sections 325, 324, 323 and 148 read with Section 149 IPC and sentenced them to undergo various terms of imprisonment.

4. The State of Punjab has filed CRA No. 219- DBA of 1995 against the acquittal of the accused for the offence u/s 326 IPC, whereas CRA No. 628 SB of 1995 has been filed by the accused challenging their conviction under Sections 325, 324, 323 and 148 read with Section 149 of the IPC.

5. It has been argued by the learned State counsel that it was clear from the record that the acquittal of the accused for the offence u/s 326 read with Section 149 IPC was not called for as there was a fracture below injury No. 1 on the person of Gurmail Singh. We find no merit in this argument for the reasons already spelt out by the trial Court and which we too endorse. We thus find no merit in the State appeal.

6. Mr. Sangha, the learned Counsel for the accused appellants has further argued that as the matter has been pending in one Court or the other for the last 16 years and that the appellants were now either middle aged or older, it would be appropriate that they should be released on probation. We observe that injury No. 1 on the person of Gurmail Singh and injury No. 2 on the person of Baldev Singh were on non vital parts and were also caused by blunt weapons. We also observe that Mohinder Singh and Bikkar Singh appellants would now be 70 years of age, Amar Singh about 80 years, Raja Singh about 42 years, Joginder Singh about 60 years, Gurmail Singh, Iqbal Singh and Lachhman Singh between 30 to 35 years and Gura Singh and Hukam Singh between 40 and 50 years of age. We also find that they are first offenders and have not been involved in any incident subsequent to the present one. We are, therefore, of the opinion that in these circumstances, the appellants should be released on probation. We, accordingly, make an order to this effect and direct that they be released on probation on terms to be fixed by the trial Court.

7. CRA No. 219-DBA of 1995 is, accordingly, dismissed, whereas CRA No. 628 SB of 1995 is allowed to the above extent. CRR No. 879 of 1995 is also dismissed.