
(2013) 09 P&H CK 0044

In the Punjab And Haryana At Chandigarh

Case No : CRMA 959-MA and 975-MA of 2012 and CRR-3333 and 3334 of 2012

Suraj Bhan

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 10-09-2013

Acts Referred:

Citation : (2014) 3 Crimes 373

Hon'ble Judges : Jitendra Chauhan, J

Bench : Single Bench

Advocate : Jagjot Singh for Mr. Tejinder Pal Singh, for the Appellant;

Judgement

Jitendra Chauhan, J.—This judgment of mine shall dispose of four cases, noticed above, being based on similar facts and having arisen out of the common impugned judgment. Briefly stated, the facts of the present case(s), emanating from the record, are thus:-

On 26.11.2006, at about 7.30 a.m., the applicant-appellant/petitioner, Suraj Bhan, (hereinafter referred to as "the complainant"), was drinking water from the hand-pump situated in the street. In the meantime, Amit, who was passing through the street along with Labh Singh, asked the complainant that he had thrown water upon him but the complainant denied. Thereafter, Amit, who was already armed with a lathi, gave lathi blow on the head of the complainant, whereas Labh Singh gave kick and fist blows. On hearing noise, the father of the complainant, Bir Singh, PW -3, came at the spot. Accused-Ramjas, Sanjay and Sub-hash, also came to the spot carrying lathis. Labh Singh picked up a brick from the street and hit on the face ("mouth" in the impugned judgment) of the complainant, due to which, two teeth of the petitioner were broken. Complainant and his father raised noise which attracted Baljit Singh and Parma Nand (PW-1), to the spot, who rescued the complainant and his father from the clutches of the accused persons. Both the injured persons were removed to the hospital for treatment. In this background, FIR under Sections 323, 325, 34, IPC was registered against the accused persons. Upon completion of investigation, and

presentation of challan, charges against the accused were framed to which they pleaded not guilty and claimed trial.

2. The learned Judicial Magistrate 1st Class, Panipat, ("the trial Court", for short) after hearing the counsel for the parties and appreciating the material/evidence on record, vide judgment and order dated 24/25.01.2012, convicted the accused-Amit, Labh Singh, Subhash, Sanjay and Ramjas, for the commission of offence punishable under Sections 325/323/149 IPC and sentenced them as under:-

However, both the sentences were ordered to run concurrently.

3. Feeling aggrieved against the judgment and order passed by the learned trial Court, accused-Amit, Sanjay and Ramjas, preferred Criminal Appeal No. 58 of 2012, and accused-Labh Singh and Subhash, filed Criminal Appeal No. 209 of 2012, before the learned Additional Sessions Judge, Panipat ("the Appellate Court", for short). The learned Appellate Court, vide common impugned judgment dated 14.08.2012, partly allowed the appeals and acquitted Ramjas, Sanjay and Subhash, of the charges by giving them benefit of doubt, whereas, Amit and Labh Singh, were convicted u/s 323 IPC only and ordered to be released on probation u/s 4(1) of the Probation of Offenders Act, 1958, for a period of one year, on their furnishing probation bonds in the sum of Rs. 10,000/- with one surety in the like amount each.

4. The complainant has approached this Court by way of filing CRM-A-959-MA-2012 and CRM-A-975-MA-2012, whereby he has sought leave to appeal against acquittal of accused, Ramjas, Sanjay and Subhash; whereas, CRR-3333-3334-2012, have been preferred against acquittal of accused-Amit and Labh Singh, under Sections 325/149 IPC, and releasing them on probation.

5. Heard.

6. As per the prosecution story, the complaint-Suraj Bhan, was drinking water at the hand-pump in the street when accused Amit and Labh Singh came there and altercation took place between them. The accused Ramjas, Sanjay and Subhash, are stated to have joined subsequently. It has also come on record that all the accused are family members. There is a delay of three days in lodging the FIR. The above named accused have not been attributed any specific injury or role, except for some vague allegations. The MLR of Bir Singh reveals only one injury on his person and it is difficult to believe that he was attacked by as many as five persons. Even in their statements, PW 2, Suraj Bhan and PW 3, Bir Singh, have not attributed any specific injury to the above accused in spite of the fact that they were alleged to be armed with lathis. Therefore, the possibility of false implication of the above named accused cannot be ruled out and the learned Appellate Court has rightly acquitted them after giving benefit of doubt.

7. As far as the medical evidence is concerned, the MLR, Ex. PW 4/A of the complainant, Suraj Bhan, reveals that he suffered three injuries with blunt weapon, injuries No. 1 and 3 were declared as simple, whereas injury No. 2 was

kept under observation till dental opinion. PW -6, Dr. Lalit Mohan Verma, has stated in his deposition that there was no fracture or dislocation of a bone or a tooth of the injured/complainant, Suraj Bhan. Moreover, the nature of injury has not been described in the dental opinion, Ex. PW 6/A. The X-ray report also does not reveal any fracture or dislocation of a bone or a tooth. Only a slight mobility of the tooth was noticed. PW 6 has specifically stated that the possibility of the injury being self-inflicted or by fall on a hard surface, cannot be rule out. Therefore, the learned Appellate Court has rightly acquitted the accused-appellants, Amit and Labh Singh, u/s 325/149 IPC while upholding the conviction u/s 323 IPC.

8. It is a golden principle of law that where two views are possible, the view in favor of the accused deserved to be adopted. In Gangabhavani Vs. Rayapati Venkat Reddy and Others, Hon"ble the apex Court has observed as under:-

This Court has persistently emphasized that there are limitations while interfering with an order against acquittal. In exceptional cases, where there are compelling circumstances and the judgment under appeal is found to be perverse, the appellate court can interfere with the order of acquittal. The appellate court should bear in mind the presumption of innocence of the accused and further that the acquittal by the lower Court bolsters the presumption of his innocence. Interference in a routine manner where the other view is possible should be avoided, unless there are good reasons for interference.

In the circumstances, this Court feels that the impugned judgment does not suffer from any perversity or illegality.

Hence, in CRM-A-959-2012 and CRM-A-975-MA-2012, no ground for grant of leave to file an appeal is made out accordingly, the same are hereby dismissed. CRR-3333-2012 and CRR-3334-2012, are also dismissed.