
(2010) 04 P&H CK 0208
In the Punjab And Haryana At Chandigarh

Surinder Pal @ Bhatti and Others

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 08-04-2010

Acts Referred:

Penal Code, 1860 (IPC) — Section 120B, 148, 149, 201, 302

Citation : (2010) 04 P&H CK 0208

Hon'ble Judges : S.S. Saron, J

Bench : Single Bench

Judgement

S.S. Saron, J.—This order will dispose of above mentioned Crl. Misc. applications seeking suspension of sentence of imprisonment of the applicants/appellants. suspension of sentence of the applicants/appellants No. 2 to 5 and 7. Learned Counsel appearing for the applicants/appellants submits that he does not press the Crl. Misc. application qua Joginder Singh (applicant/appellant No. 2).

2. The suspension of sentence of the other applicants/appellants is sought primarily on the ground that they have undergone imprisonment of more than one year out of imprisonment of five years that has been imposed.

3. After hearing learned Counsel for the parties and perusing the record, it may be noticed that in terms of the order dated 23.12.2008 passed by the learned Additional Sessions Judge (Ad hoc), Fast Track Court, Jalandhar, the appellants were acquitted of the charge u/s 307 IPC. However, it was observed that injuries on the person of Gurdial Singh were inflicted by all the applicants/appellants with common intention and act of one of the accused is the act of all. The injuries on the forearm and the legs of Gurdial Singh were declared grievous in nature as the same were caused with sharp-edged weapons. Accordingly, all the applicants/appellants were found guilty for the offence punishable u/s 326 IPC; besides, also for the offence punishable u/s 324 IPC. The applicants/appellants have also been found guilty for the offence u/s 323 IPC.

4. It may be noticed that Paramjit Singh @ Pamma (applicant/appellant No. 3) is

also involved in FIR No. 51 of 2001 registered at Police Station Lambra District Jalandhar for the offences under Sections 452, 148 and 149 IPC.

5. Lakhbir Singh (applicant/appellant No. 4) has been attributed two "kirpan" blows one on the head of Gurdial Singh which injury, however, has been opined to be simple in nature and the second is also on the left leg which is on a non-vital part. Lakhbir Singh (applicant/appellant No. 4) is involved in two FIRs i.e. FIR No. 108 of 2002 for the offences under Sections 452 and 341 IPC and FIR No. 51 of 2001 for the offences under Sections 452, 148 and 149 IPC, both registered at Police Station Lambra, District Jalandhar.

6. Karnail Singh (applicant/appellant No. 5) is attributed a hockey blow on the left leg of Gurdial Singh. There are two FIRs against him i.e. FIRs which are also there in the case of Lakhbir Singh (applicant/appellant No. 4).

7. Tirath @ Manga (applicant/appellant No. 6) has been attributed a dang blow on the left elbow of Gurdial Singh and also on the person of Manjit Singh. There is one FIR against him i.e. FIR No. 108 of 2002 for the offences under Sections 452, 341 and 323 IPC registered at Police Station Lambra, District Jalandhar.

8. Raja (applicant/appellant No. 7) is attributed two hockey blows on the person of Gurdial Singh, one on the left elbow and second on the upper portion of the left arm. He is also involved in two FIRs i.e. FIR No. 96 dated 7.9.1996 for the offences under Sections 323 and 324 IPC and FIR No. 108 dated 26.9.2002 for the offences under Sections 452, 341 and 323 IPC registered at Police Station Lambra, District Jalandhar. Learned Counsel for the complainant has submitted that Raja (applicant/appellant No. 7) has been summoned vide order dated 19.1.2010 passed by the learned Judicial Magistrate Ist Class, Jalandhar for the offences under Sections 302, 325, 201 and 120B and 149 IPC. In respect of the said case FIR No. 120 dated 9.8.2005 for the offence u/s 302/34 IPC was registered. After investigation cancellation report was filed, which was accepted by the learned Judicial Magistrate Ist Class, Jalandhar on 11.8.2007.

9. After giving my thoughtful consideration to the matter, it may be noticed that Joginder Singh (applicant/appellant No. 2) is the main accused. However, learned Counsel for the applicants/appellants has withdrawn the application seeking suspension of sentence qua him. The other applicants/appellants are attributed dang blows and hockey blows etc. except for Lakhbir Singh (applicant/appellant No. 4) who is attributed two blows with a "kirpan" one of which is on the head of Gurdial Singh, which injury has, however, been opined to be simple in nature. The applicants/appellants have undergone more than one year of imprisonment.

10. Learned Counsel for the applicants/appellants has submitted that in the FIRs that have been registered against the applicants/appellants, they are on bail in the said cases. It is submitted that the fact that Raja (applicant/appellant No. 7) has been summoned by the learned Judicial Magistrate Ist Class vide order dated 19.1.2010 is inconsequential as in the FIR, the police has found it to be a false case and cancellation report has been accepted by the learned Judicial Magistrate

Ist Class, Jalandhar on 11.8.2007.

11. In the circumstances, keeping in view the period of imprisonment undergone by the applicants/appellants, other than applicant Joginder Singh (appellant No. 2), and the fact that the appeal is not likely to mature for hearing in the near future, it would be just and expedient that the sentences of imprisonment of applicants/appellants No. 1 and 3 to 7 are suspended.

12. Accordingly, the sentence of imprisonment of applicants/appellants No. 1 and 3 to 7 shall, during the pendency of the appeal, remain suspended subject to their furnishing personal bonds and surety each to the satisfaction of the learned Chief Judicial Magistrate, Jalandhar. However, the application seeking suspension of sentence of Joginder Singh (applicant/appellant No. 2) is dismissed as not pressed at this stage.