

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl. Revision No. 142 of 1995

Date of decision : September 28, 2007

Sukhbir Singh

... Petitioner

versus

State of Haryana

... Respondent

Crl. Revision No.143 of 1995

Dilawar Singh and others

... Petitioners

versus

State of Haryana

... Respondent

Coram: Hon'ble Mr. Justice A.N. Jindal

Present: Mr. Arvind Singh, Advocate
for the petitioners.

Mr. K.S. Godara, DAG, Haryana.

A.N. Jindal, J.

This judgment shall dispose of criminal revision petitions Nos.142 of 1995 (filed by Sukhbir Singh) and No. 143 of 1995 (filed by Dilawar Singh and others), having been arisen out of the judgment dated 22.2.1995 passed by the learned Additional Sessions Judge, Karnal, dismissing the appeals filed by the petitioners against the judgment 12/13.7.1991 passed by the learned Judicial Magistrate Ist Class, Karnal, convicting and sentencing them under Sections 323/324/325 read with Section 34 IPC, however reducing the sentence from three years rigorous

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imprisonment to two years rigorous imprisonment under Section 325/34 IPC but increasing the fine from Rs.500/- to Rs.1500/-.

Briefly stated, the facts as unfolded by the prosecution, are that on 10.10.1986 at about 11.30 AM, when the complainant Partap Singh (hereinafter referred to as 'the complainant') went to the well for taking his cattle, he saw the accused Sukhbir Singh, Dilawar Singh, Shamsheer Singh son of Hukam Singh and Subhash were digging a bore in the well and were digging the earth from the well. When he lodged protest, the accused started abusing him. Accused Sukhbir Singh took out bhala (a sharp edged weapon), whereas the remaining accused took out lathies which were lying hidden in the grass and raised lalkara to teach him a lesson. Accused Sukhbir Singh inflicted bhala blow on his left leg whereas the remaining accused inflicted multiple injuries to him with their lathies respectively. Hue and cry raised by the complainant attracted Hawa Singh and Chater Devi, who came at the rescue of the complainant. In the meanwhile Hukam Singh and his wife Khazani also reached the spot, who exhorted to break the bones of the complainant. The accused inflicted multiple blows to the complainant and thereafter fled away from the spot with their respective weapons. The complainant was rescued by his brother Hawa Singh and Chater Devi. The complainant was removed to Civil Hospital, Gharaunda for treatment and thereafter he was referred to Civil Hospital, Karnal for treatment.

On the basis of the aforesaid statement, formal FIR was registered. Investigation was commenced. On completion of the investigation, challan was presented in the Court.

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Formal charge under Sections 323/324/325 read with Section 34 IPC was framed against the petitioners to which they pleaded not guilty and claimed trial.

In order to substantiate the charge, the prosecution examined Dr. H.C. Bhatia (PW1), Dr. A.K. Garg (PW2), Dr. K.L. Sachdev (PW3), Hawa Singh (PW4), SI Sewa Singh (PW5), Partap Singh (PW6) and Chater (PW7).

When examined under Section 313 Cr.P.C. the petitioners denied all the incriminating circumstances appearing against them and pleaded their false implication. However, no evidence was led in defence.

The trial ended in conviction. The appeals filed against the said judgment were also dismissed with the modification in the sentence. Hence this revision petition.

Arguments heard. Record perused.

No agreement can be expressed with the arguments advanced by the learned counsel for the petitioner that non examination of the Investigating Officer is fatal to the prosecution case. It being a hurt case based on the testimony of injured witnesses, who having special knowledge of the date, time, place and the manner in which the occurrence took place, supported the prosecution case; No prejudice could be said to have been caused to the petitioners for non examination of the Investigating Officer, who was not a witness to the occurrence and had acted at the instance of the witnesses.

Again, no merit can be found in the argument that the injuries on the person of Khazani Devi, a lady from the side of the accused, has not

been examined because Khazani Devi was not the accused in the present case. Any injury found on the person of Khazani Devi around the time of occurrence cannot be said to be the result of any involvement of Khazani Devi in the said occurrence. Had she participated in the commission of the crime, then she would not have been absolved and she would have certainly been arrayed as the accused. No independent witness is required to be examined as the prosecution was to examine only the material witnesses and the Courts should go by the quality of evidence and not the quantity. Chatar Devi and Hawa Singh while appearing in the witness box fully supported the prosecution version as set up by them. Even otherwise, in small villages, the people do not want to take side of any one as they know that while doing so, they will gain nothing but the enmity of a party. Partap Singh injured while appearing in the witness box has also named the accused as the culprits. No plausible defence has been set up by the accused to prove their innocence.

Now coming to the quantum of sentence, it may be observed that Dr. H.C. Bhatia (PW1), who conducted the medicolegal examination of the injured, observed as many as 22 injuries, out of them many injuries were on the vital parts of the body. Dr. A.K. Garg, Eye Surgeon, observed that there was subconjunctival hemorrhage of right eye in the lateral quadrant. Anterior segment looked normal. Vision in right eye was 6/9 Fundus looked normal. Dr. K.L. Sachdeva (PW3) Radiologist, who examined the injured Partap on 13.10.1986, found three fractures as shown in the report Ex.PW3/A.

Thus, keeping in view the merciless beatings of Partap at the

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hands of the petitioners, I am not inclined to extend them benefit of probation. However, keeping in view the longevity of the trial some reduction in the sentence could be made.

Consequently, both the revision petitions stand dismissed and the sentence awarded against them under Section 325 and 325 read with Section 34 IPC is reduced to one year without any alteration in the sentence of fine. The sentences awarded against them for the other offences shall remain intact.

Copy of this judgment be sent to the Chief Judicial Magistrate, Karnal, for information and compliance.

(A.N. Jindal)
Judge

September 28, 2007
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To be referred to Reporter : Yes/No.