

**In the Court of Sh. Dinesh Kumar,
Additional Sessions Judge,
Sangrur (UID No.PB-0445)**

Criminal Appeal No.	03 dated 25.01.2018
Date of Institution	25.01.2018
CNR No.	PBSG01-0000701-2018
Registration No.	32-2018
Date of Decision	08.04.2019

1. Gurmeet Singh aged 61 years son of Naranjan Singh, resident of Bhogiwal;
2. Jasmeet Singh aged 30 years son of Gurmeet Singh, resident of Bhogiwal;
3. Karamjit Singh aged 32 years son of Sikander Singh, resident of Bhogiwal.

...Appellants/Accused.

Versus

State of Punjab

...Respondent.

Appeal against the judgment of conviction and order of sentence dated 17.01.2018 passed by the Court of Sh. Harpreet Singh Simak, PCS, Judicial Magistrate Ist Class, Malerkotla.

...

Present: Appellants on bail
Sh. N.S. Dhaliwal Advocate for appellants
Sh.R.K.Sharma Addl.P.P for the State
Sh.Parvej Akhtar Advocate for complainant

JUDGMENT:

1. The learned Judicial Magistrate Ist Class, Malerkotla vide

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judgment dated 17.01.2018 rendered the judgment of conviction and passed an order of sentence under Section 452/ 323/ 325 of IPC read with Section 149 IPC and section 148 of IPC and awarded the punishment to the appellants/ accused as under:

Gurmeet Singh, Jasmeet Singh and Karamjeet Singh	
U/s 148 IPC	To undergo rigorous imprisonment for one year each and to pay fine of Rs.500/- each and in default of payment, to further undergo rigorous imprisonment for 10 days each
U/s 452 IPC read with section 149 IPC	To undergo rigorous imprisonment for three years each and to pay fine of Rs.1000/- each and in default of payment, to further undergo rigorous imprisonment for 15 days each
U/s 323 IPC read with section 149 IPC	To undergo rigorous imprisonment for three months each and to pay fine of Rs.500/- each and in default of payment, to further undergo rigorous imprisonment for 10 days each
U/s 325 IPC read with section 149 IPC	To undergo rigorous imprisonment for years each and to pay fine of Rs.1000/- each and in default of payment, to further undergo rigorous imprisonment for 15 days each

2. Complainant Gurpreet Singh got registered the present FIR against the accused persons that they gave beatings to him and his friends Jaipinder Singh and Daljinder Singh by forcibly entering into his shop. After completion of investigation, challan was presented against appellants/ accused under Sections 325/201/34 of IPC.

3. Upon appearance, copies of the same were supplied to accused as required under Section 207 Cr.P.C. and finding a prima facie case, accused were charge sheeted under Sections 148/452/323/325 read with Section 149 of IPC, to which accused pleaded not guilty and claimed

trial.

4. In order to prove its case prosecution examined Gurpreet Singh as PW-1, ASI Harwinder Singh as PW-2, Daljinder Singh as PW-3, Gursharan Singh as PW-4, Jaipinder Singh as PW-5, Ajay Kumar as PW-6, Darshan Kumar as PW-7, Dr. Tejinder Singh as PW-8, HC Jagdeep Singh PW-9, Harpreet Singh as PW-10, Dr. Rajesh Kumar as PW-11, Mandeep Singh as PW-12, Sudhir Chopra as PW-13 and Mohd. Ashraf as PW-14. Thereafter, evidence of prosecution was closed by order vide order dated 12.10.2017.

5. After the closure of evidence of the prosecution, statement of the accused under Section 313 1Cr.P.C., without oath, was recorded in which all incriminating evidence appearing against the accused was put to them to which, the accused denied and pleaded false implication in the present case. In defence accused did not lead any evidence.

6. After conclusion of evidence and hearing the learned APP for the State and the learned defence counsel, the learned trial Court convicted and sentenced the accused, as enumerated above. Aggrieved from the same, the appellants/ accused have preferred the present appeal.

7. During the pendency of arguments, parties arrived at settlement amicably and in this regard complainant and injured gave their statements in the Court regarding settlement.

8. Complainant Gurpreet Singh and injured Daljinder Singh and Jaipinder Singh suffered their separate statements that matter has been

compromised with the appellants/ accused Gurmeet Singh, Jasmeet Singh and Karamjit Singh and they do not want to continue the proceedings against appellants. They further stated that they have no objection if the appellants be acquitted on the basis of compromise.

9. In the present case, formal FIR Ex.PK was registered on the basis of statement of complainant Gurpreet Singh in which he categorically levelled the allegations against accused persons that all of them in furtherance of their common intention formed unlawful assembly entered into his shop and caused injuries to him and his friends. The prosecution has also examined injured Daljinder Singh as PW-3 and he also corroborated the version of complainant Gurpreet Singh (PW-1) on material particulars. The defence has failed to extract any favourable answer from them. The medical evidence is in-consonance with the ocular evidence. PW-4 Dr. Gursharan Singh duly proved the MLR of complainant Gurpreet Singh as Ex.PW4/A, MLR of injured Daljinder Singh as Ex.PW4/D and MLR of injured Jaipinder Singh as Ex.PW4/G. Dr. Tejinder Singh (PW-8) proved on record the x-ray films of complainant Gurpreet Singh and injured Daljinder Singh. In view of the aforesaid discussion, this Court is of the considered view that there is no infirmity in the judgment passed by the learned trial Court and therefore the conviction part of the judgment is upheld.

10. This leads to the next question whether appellants are entitled for the probation or not. Learned Counsel for the appellants has prayed for

grant of concession of probation to the accused persons. He further argued that the accused persons are first offenders and they have no shady past. The aforesaid prayer has been opposed by the learned Additional Public Prosecutor for the State. It has been argued that accused persons caused injuries on the person of complainant.

11. In Gurbachan Singh Vs. State of Pb. CrI. Revision No.639 of 1997 (O&M), decided on 7.8.2009, Hon'ble High Court of Punjab and Haryana laid down emphasis on the reformatory approach in awarding punishment. It is held that criminal jurisprudence is not only to punish the guilty to bring peace, discipline, and harmony in the society but also to give opportunity to individuals to reform themselves. Within the parameter of law, an attempt has to be made to afford an opportunity to the individual to reform himself and lead the life of normal, useful member of the society. The Hon'ble High Court relied upon the judgment of Hon'ble Supreme Court in Karamjit Singh Vs. State (Delhi Administration) 2001(9) SCC 161. In the aforesaid judgment, Hon'ble Supreme Court observed as under:-

“.....Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realize his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and makes himself acceptable to the society as a useful social being. In determining the question of proper

punishment in a criminal case, the court has to weight the decree of culpability of accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is, what is need in such a case. A balance between the interest of the individual and the concern of the society, weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes effecting society should not be undermined. Within the parameter of law, an attempt has to be made to afford an opportunity to the individual to reform himself and to lead the life of a normal, useful member of the society and makes his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards the fellow being and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

12. In the present case, appellants are the first offenders and they have no shady past. The parties have settled their dispute to live a peaceful life. Applying the ratio laid down by the Hon'ble Supreme court and Hon'ble High Court , in the aforementioned judgment, on the facts and circumstances of the case, this court is of the considered view that appellants deserves the leniency. The culpability of the accused persons is not to such an extent that harsh punishment be imposed upon them. Therefore, keeping in view the nature and manner of offence, this Court ordered the accused persons to be released on probation on their

furnishing probation bonds in the sum of ₹20,000/- each with one surety each in the like amount undertaking, therein,

- a) To appear and receive sentence, as and when called by the court, during period of one year. They will maintain peace and good behaviour and shall not repeat the same offence against the complainant or his family during this period.

13. Accordingly, the appeal filed by appellants/ accused is hereby partly allowed, in the aforesaid terms. The conviction of appellants under Sections 452,323,325 of IPC read with Section 149 IPC and 148 of IPC is maintained, however they are extended the benefit of probation in aforesaid terms and conditions. The sentence of fine shall remain intact.

14. The aforesaid appellants are directed to submit the probation bonds within seven days, in the aforesaid Sections as imposed by the learned trial Court. Record of learned trial Court be returned and appeal file be consigned to the record room, after due compliance.

Pronounced in open court.

Dt.08.04.2019

Ramandeep Kaur
Stenographer-III

(Dinesh Kumar),
Additional Sessions Judge
Sangrur (UID No.PB-0445)

(Dinesh Kumar)
ASJ, Sgr., 08.04.2019