

**IN THE COURT OF S. RAVDEEP SINGH HUNDAL
ADDITIONAL SESSIONS JUDGE, RUPNAGAR (PB0162)**

CNR No. PBRO-01-005481-2018

Case No. CRA/264 of 2018

Date of Institution: 14.11.2018

Date of Decision: 13.11.2019

1. Surmukh Singh @ Babla aged about 58 years,
2. Karamjit Singh @ Kamma,
3. Gursewak Singh **(dead)**,
4. Gurmail Singh **(dead)**, all residents of village Gandho Kalan, P.S. Singh Bhagwantpur, District Rupnagar. On SA.

..... Appellants/accused

Versus

State of Punjab.

..... Respondent

Appeal against judgment and order of sentence dated 18.10.2018 passed by the Court of Ms. Ramandeep Neetu, PCS, learned Judicial Magistrate First Class, Rupnagar in CNR No.PBRO-03-001907-2015.

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Present: Appellants on bail with counsel Sh. Kamal Singh Saini, Adv. Shri Ravi Sareen, Addl. Public Prosecutor for the respondent/ State.

JUDGMENT

- 1) This appeal has been preferred by the appellants against the judgment and order of sentence dated 18.10.2018 passed by the Court of Ms. Ramandeep Neetu, PCS, learned Judicial Magistrate First Class, Rupnagar in case FIR No.28 dated 8.3.2014 under Section 452, 323, 506,

34 of Indian Penal Code (offence under Section 452 IPC was deleted and Sections 341, 324 IPC were added lateron), Police Station Singh Bhagwantpur whereby the appellants have been convicted for the offences punishable under Sections 323, 452 read with section 34 of Indian Penal Code and sentenced accordingly thereunder as detailed in the impugned order of sentence.

2) The prosecution story in brief is that the present case was registered on the statement of **Complainant Kulwant Singh (PW2)** recorded with the police on 8.3.2014 that at around 6:00 a.m., he was sitting inside the house of his brother **Shail Singh (PW4)** and was discussing the marriage of his daughter Paramjit Kaur, when Gurmail Singh son of Shadi Singh and Gursewak Singh son of Gurmail Singh, who was holding a stick in his hand, entered inside the house of his brother and Gurmail Singh pushed the complainant as a result of which he fell on the floor and Gursewak Singh attacked him with the stick in his hand, which hit him on his head and the second blow of the same hit the complainant on his right shoulder. The complainant further stated that he raised hue and cry at which his brother Shail Singh and his children saved him from the said persons. He further stated that at that time Babla and Kamma @ Surmukh Singh were also present and were using filthy language against their community. He further stated that the motive behind the occurrence was that on 7.3.2014 the marriage of the niece of the complainant was to be solemnized and the *baraat* had come but Gursewak Singh, who was the *Sarpanch* of the village, insulted the *baraat* and made the *baraat* leave the school of the village and as such, the complainant wished to organize a

Panchayat against Gursewak Singh. During the investigation, the offence under Section 452 IPC was deleted and offences under Sections 341 and 324 IPC were added, the accused were arrested. On completion of investigation, challan was presented against the appellants-accused in the court.

3) After hearing the arguments of the learned Addl. PP for the State and the learned counsel for the accused, charge under Sections 323, 452, 506 read with section 34 of Indian Penal Code, was framed against the accused to which they pleaded not guilty and claimed trial.

4) In order to substantiate the charge, the prosecution examined **Dr. Mandeep Singh, Medical Officer, District Jail, Rupnagar** as PW1, **complainant Kulwant Singh** as PW2, **Dr. Lovekesh Kumar, Medical Officer, Civil Hospital, Nabha** as PW3, **Shail Singh** eyewitness as PW4, **ASI Kulwinder Singh Investigating Officer** as PW5, **HC Jaswinder Singh recovery witness** as PW6 and thereafter, learned APP for the State closed the prosecution evidence.

5) The statements of the accused under Section 313 Cr.P.C. were recorded in which all the incriminating evidence appearing against the accused was put to them, which they denied and pleaded innocence and false implication in the case. Accused Gursewak Singh pleaded that on 8.3.2014 Shail Singh and others forcibly entered into his house and inflicted injuries to him and his father Gurmail Singh and damaged his motor cycle and house hold articles and that the present case has been falsely lodged by Shail Singh and others in connivance with the police. The accused opted to lead defence evidence. However, no witness was

examined by the accused in their defence evidence and the learned counsel for the accused closed the defence evidence vide his separate statement to that effect.

6) After hearing the arguments of the learned Addl. PP for the State and the learned defence counsel, the learned Trial Court convicted the appellants/accused for the offences punishable under Sections 323, 452 readwith section 34 of Indian Penal Code vide impugned judgment and sentenced them accordingly thereunder as detailed in order of sentence. However they were acquitted of the charge under section 506 IPC.

7) Aggrieved by the aforesaid judgment and order, the instant appeal has been preferred by appellants/accused before this Court.

8) Notice of the appeal was given to the State, learned Additional Public Prosecutor appeared and contested the case. Trial Court record was also requisitioned.

9) I have heard the learned counsel for the appellants-accused as well as learned Addl. Public Prosecutor for the State and have gone through the record minutely.

10) When the case was fixed for final arguments, at the very outset, injured and appellants suffered statement that they have entered into compromise. Appellants stated that they do not want to contest the judgment of conviction on merits and they may be released on probation being first offenders having entered into compromise.

11) In view of the compromise effected between the parties, the judgment of conviction dated 18.10.2018 holding the appellants guilty

under Sections 323, 452 readwith section 34 of Indian Penal Code, is maintained and upheld.

12) As far as the plea of the appellants to release them on probation is concerned, they are first offenders as there is nothing contrary on the record. They have entered into compromise with opposite party. In the case in hand, the offences punishable under Sections 323, 452 readwith section 34 of Indian Penal Code are not punishable with death or imprisonment for life. In **Gurbachan Singh vs State of Punjab [1997(2) RCR (Criminal) 215 SC]** Hon'ble Punjab and Haryana High Court has been pleased to hold that *in case of conviction under section 325,323 IPC the Court can extend the benefit of probation to a person who is found guilty as the offences are not punishable with death or imprisonment for life.*

13) So, the Court can extend benefit of probation to the appellants/accused under section 4 of the Probation of Offenders Act 1958. The Probation of Offenders Act 1958 (herein after referred to as Act of 1958) is a milestone in the progress of the modern trend of reform in the field of penology. It is the result of recognition of the doctrine that the object of criminal law is more to reform an individual offender than to punish him. As such however the conviction of the appellants under Sections 323, 452 readwith section 34 of Indian Penal Code has been upheld but the order on the quantum of sentence under said provisions of Indian Penal Code is hereby modified. Instead of awarding the substantive sentence as per order of Ld. trial court under the said provisions of IPC,

they/appellants are ordered to be released on probation under section 4(1) of Act of 1958 subject to the following conditions:-

a) They shall furnish probation personal bonds in the sum of Rs.50,000/- each for a period of One year to the satisfaction of Ld. Trial Court and to appear and receive the sentence whenever called upon during such period and in the meantime to keep peace and be of good behavior.

b) Fine deposited by the appellants before the learned Trial Court be treated as costs of proceedings under section 5(1) (b) of Act of 1958.

c) The probation bonds be furnished on or before 30.11.2019 before Ld. Trial Court.

e) In case the probation bonds are not furnished within stipulated period, the Ld. Trial Court shall be at liberty to proceed in accordance with law against the appellants.

f) Ld. Trial Court is directed to send the compliance report to this court, regarding furnishing of probation bonds.

14) With the above modification in the sentence the appeal is partly allowed. Trial Court record along with copy of judgment be sent back and appeal file be consigned to the record room.

**Pronounced in open Court:
Dated: 13.11.2019**

**(Ravdeep Singh Hundal)
Additional Sessions Judge
Rupnagar(PB0162)**

**Sohan Lal*
Stenographer Gr. I*