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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.713/2014
(Arising out of SLP (Crl.) No.2967/2013)

MAHINDER SINGH & ANR.

Appellant(s)

VERSUS

STATE OF HARYANA & ANR.

Respondent(s)

WITH
CRIMINAL APPEAL NO.714/2014
(Arising out of SLP (Crl.) No.3726/2013)

ORDER

1. Leave granted.
2. Heard learned Counsel for the parties.
3. These appeals have been preferred against the impugned judgment and order dated 10.1.2013, passed in Criminal Appeal No. 691 of 2001 by the High Court of Punjab & Haryana at Chandigarh modifying the judgment and order of conviction and sentence, passed by the Trial Court by which and whereunder the appellants as well as respondent no. 2 had been convicted under Section 307/34 of the Indian Penal Code (hereinafter referred to as 'IPC') and sentenced to undergo 7 years' RI and a fine of Rs.3,000/- each and in default of payment of fine, each accused shall suffer RI for six months; and under Section 326/34 IPC each accused to undergo 5 years' RI and a fine of Rs.2000/- each and in default of payment of fine, shall further undergo RI for six months. Each of the accused shall further undergo RI for 3 months under Section 323/34 IPC. All the sentences were directed to run concurrently.
4. In pursuance of the FIR dated 18.5.1997 lodged by Inder Singh, a case was registered against the appellants and respondent no.3 under Sections 323, 325, 326 and 307 read with Section 34 IPC in view of the allegations that the appellants and the respondent no.3 had caused serious injuries to the victim and in view thereof the investigation ensued.
5. The injured - Inder Singh was examined by Dr. V.K. Sarija on 18.2.1999 and he found the following injuries:

"1. There was an incised wound 2 cm x 0.5 cm x skin deep over the left parietal bone of skull 9 cm above the left ear.

2. There was reddish contusion 8 cm x 3 cm over the lateral aspect of left leg. There was swelling around the area. It was tender.

3. There was reddish contusion 7 cm x 3 cm over the lateral aspect of the left knee. The area was tender.

4. There was reddish contusion 6 cm x 1.2 cm over the leg at its lateral aspect.

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5. There was reddish contusion 2.2 cm x 1.2 cm over the left cheek.

6. There was reddish contusion 7 cm x 2 cm over the right leg at its interior aspect 8 cm below the right knee.

7. There was an abrasion 5 cm x 0.5 cm linear over the left leg at its anterior aspect.

8. There was reddish contusion 3 cm x 0.7 cm over the left side of the chest 6 cm lateral to the left nipple."

(Emphasis added)

6. After completing the investigation, the chargesheet was filed against the aforesaid persons and on conclusion of the trial, the aforesaid persons were convicted vide impugned judgment and order dated 14/15.6.2001 and sentenced as referred to hereinabove.

7. Aggrieved, the said persons preferred appeal before the High Court of Chandigarh. The High Court took note of the injuries referred hereinabove and then referred to the arguments advanced by the learned counsel for them and without giving sufficient reasons disbelieved the prosecution witness Balbir Singh without giving cogent reasons, however, came to the conclusion that the testimony of the injured witness could not be brushed aside and then held as under :

"Keeping in mind the entire conspectus of facts, I am satisfied that the injuries on the leg were inflicted by one person and out of Mohinder Singh and Ram Kumar only

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Mohinder Singh was present at the spot. Resultantly, Ram Kumar - appellant No.3 is acquitted. As regards appellant No.2, he has caused five simple injuries on the legs of the injured person. Keeping in mind the totality of the circumstances, I deem it appropriate to acquit him of the charge under Section 307 IPC and convict him under Section 324 IPC and sentence him two years imprisonment. As regards appellant No.4, he is also acquitted of the charge under Section 307 IPC and convicted under Section 324 IPC. However, since he gave a blow on the chest of the injured, he has to be given differential treatment and his sentence would be of three years imprisonment. As regards appellant No.1, there is no mitigating circumstance in his case.

Consequently, appeal qua him is dismissed."

8. Aggrieved, Mahinder Singh and Inder Singh - accused challenged the said judgment and order and made Ram Kumar, accused as the performa respondent.

This Court vide order dated 17.4.2013 impleaded Ram Kumar, another accused suo motu as a respondent and issued notice to him as to why the impugned judgment and order dated 10.1.2013 be not set aside as learned Judge of the High Court has not given any reason while deciding the appeal.

9. In view thereof, all the parties were heard and we are of the view that in view of the fact that injury nos.1 and 8 referred to hereinabove had been on the vital part of the body and could not be termed to be simple injuries. The High Court has decided the matter in a most cryptic manner and could not notice even the injuries found on the person of the victim properly. Thus, the same is liable to be set aside.

10. In view of the above, we allow the appeals, set aside the impugned judgment and order dated 10.1.2013 and remand the matter to the High Court for re-consideration. In view of the fact that the incident occurred in the year 1997 and the appellants had remained in jail for some time, we request the High Court to hear afresh and dispose of the appeals as early as possible preferably within a period of six months from the date of production of the certified copy of the order before it.

.....J.
[DR. B.S. CHAUHAN]

..... J.
[J. CHELAMESWAR]

NEW DELHI
MARCH 31, 2014

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).2967/2013

(From the judgement and order dated 10/01/2013 in CRLA
No.691/2001, of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

MAHINDER SINGH & ANR. Petitioner(s)

VERSUS

STATE OF HARYANA & ANR. Respondent(s)

(With appln(s) for suspension of sentence and office report)

WITH SLP(Crl) NO. 3726 of 2013

(With appln(s) for bail and permission to file additional
documents and office report)

Date: 31/03/2014 These Petitions were called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE J. CHELAMESWAR

For Petitioner(s) Dr. Krishan Singh Chauhan,Adv.
Mr. Ajit Kumar Ekka,Adv.
Mr. Ravi Prakash,Adv.
Mr. Murari Lal,Adv.

Mr. Pawan Kumar Bahl,Adv.
Mr. B. Vijay Kumar, Adv.

For Respondent(s) Mr. Chand Kiran,Adv.
Mr. P.K. Jayakrishnan,Adv.

Mr. Ramesh Kumar,Adv.
Dr. Monika Gusain,Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted. The appeals are allowed in terms of
the signed order.

(O.P. SHARMA)
Court Master

(M.S. NEGI)
Assistant Registrar

(Signed order is placed on the file)