

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1871 OF 2009
RANDHIR SINGH & ORS.

APPELLANT (S

)

VERSUS

STATE OF PUNJAB

RESPONDENT (

S)

O R D E R

Heard learned counsel for the parties.

This appeal as against the order of the revision was by eight of the accused, who were convicted by the Trial Court along with the four others, namely, Harbhajan Singh, Gurinder Singh, Rajwinder Singh and Parminder Singh. Though conviction by the Trial Court was of twelve accused, the said conviction was upheld by the learned Additional Sessions Judge in the judgment dated 09.03.2009. All the twelve convicted accused preferred Criminal Revision No.660 of 2009 before the High Court of Punjab and Haryana at Chandigarh. The High Court by the impugned judgment dated 19.5.2009 after detailed analysis of the whole evidence found

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Narendra Prasad
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Reason:

that the complainant/PW.2 was also one of the injured while affirming the version given in the FIR made an improvement and for the first

time named Harbhajan Singh, his two sons, Gurinder Singh and Rajwinder Singh and Parminder Singh son of Bahadur Singh as accused The High Court, therefore, held that the said conviction imposed on those four accused cannot be sustained.

The revision was therefore, partly allowed and while setting aside the conviction in respect of those four accused confirmed the conviction of the remaining eight accused for the offence under Section 326 IPC but chose to reduce the sentence from three years to two years rigorous imprisonment.

Simultaneously, the High Court enhanced the fine amount to Rs.5,000/- qua each accused with the default sentence of three months rigorous imprisonment.

All the eight accused preferred this appeal as against the said judgment of the High Court. During the pendency of this appeal Appellant No.8/Jagga Singh son of Bachan Singh expired. The learned counsel for the appellants placed before us the death certificate issued by the Local Registrar, Sub-Center, Sante Majra, PHC, Gharuan which

confirmed the said ² death of Appellant No.8/Jagga Singh, which shall be taken on record. Therefore, the appeal insofar as Appellant No.8/Jagga Singh stands abated. In this appeal, we are now concerned with the remaining seven appellants/accused.

To briefly narrate the facts, there was a property dispute between the appellants and the injured, three of whom were examined as PWs.2, 3 and 5, apart from eye witness, PW.4/Gurdial Singh. The occurrence occurred on 31.10.1996 at 12.15 P.M., the medical evidence in the form of Exhibits PW8/A to PW8/Q marked through PW.8/Dr. H.S. Oberoy, who was the then Medical Officer, Civil Hospital, Kharar of all the four

injured disclosed that except the first injury sustained by PW.2 and the fourth injury sustained by PW.3, rest of the injuries ere all bruises or abrasions though some of the injuries were noted as bruises, abrasions or lacerated and some were noted as incised wounds, even such injuries have been described as simple injuries by PW.8 and also deposed as such before the Court.

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It must also be noted that with reference to the property dispute civil litigations were hotly contested by the complainant party and the accused party apart from the earlier litigations as between the predecessor-in-interest. One relevant factor which is required to be noted as has been referred to by the High Court which is more relevant related to the decree which was secured by the predecessor-in-title of the complainant party which was of the year 1992 and the attempt of the predecessor-in-interest of the accused party to set at naught the said decree subsequently in the year 1996 which was not successful. However, the fact remained that the second appeal as against the dismissal of the suit in the first appeal in Regular Second Appeal No.3663/1999 was stated to be pending at that time when the judgment came to be rendered in the present proceedings.

In this context, the conclusion reached by the High Court in the impugned judgment can be usefully referred and we are also of the view that the said conclusion and reasoning made by

the High Court for confirming the conviction against the appellants while modifying the sentence imposed was sufficient enough to hold that no further interference is called for in the impugned judgment. The said part of the reasoning of the High Court reads as under:-

"So far as possession is concerned earlier also accused party was tried in the FIR lodged at the instance of the complainant party. Present accused were acquitted vide Exhibit D1 on 7.2.2001. In that case occurrence had taken place on 13.7.1996. Three months after, again accused had gone on to cause injuries to the complainant party. Once the FIR was registered against them and they were facing prosecution, when the complainant party had gone unarmed to cultivate the vacant land, lawful remedy for the appellants was to approach the concerned authorities vested with law to restrain the complainant party. Instead of doing that accused armed with weapons have gone at the spot and had caused injuries to Nasib Singh, Kaushal Singh, Gian Singh and Sadhu Singh"

It is relevant to note that the assessment as regards the criminal conduct of the appellants thus came to be made by the Trial Court, the Session Court as well as the High Court by referring to the facts which were

prevailing as on the date of the occurrence, namely, 31.10.1996. Therefore, the pendency of the Second Appeal, which was in the year 1999 and the acquittal ordered by the learned Magistrate under Exhibit D1 dated 7.2.2001 were rightly found to be totally irrelevant for the purpose of finding of the guilt of the accused by the courts below.

We are, therefore, convinced that such a conclusion reached by the courts below does not call for interference.

Learned counsel for the appellants having thus failed to make out a case for interfering with the impugned judgment lastly contended that the appellants have as on date undergone imprisonment pending this appeal ranging from 6 months 25 days to 7 months 29 days and that the High Court also enhanced the fine amount to Rs.5,000/- each. The learned counsel relied upon the decision of this Court in Siddaiah @ Siddhu @ Siddegowda v. State of Karnataka, reported in 2015 (1) RCR (Criminal) 739 where also the conviction was under Sections 143, 147, 148, 323, 324, 307 read with Section 149

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IPC, this Court while taking note of the incarceration in jail for about seven months for the offence under Section 326 IPC reduced the sentence to the period already undergone taking note of the age of the said accused and by enhancing the fine amount to Rs.50,000/- as against the fine imposed by the courts below in a sum of Rs.1,000/-.

As against the above submissions, Mr. Jayant K. Sud, learned Additional Advocate General appearing for the State of Punjab with all his earnestness submitted that any sympathy shown in such matters will give a wrong signal, inasmuch as the offence which was committed in the case on hand emanated from a property dispute in the State of Punjab and most of such offences are being committed by virtue of the

greediness displayed by many of the accused to acquire landed properties and therefore any interference with the punishment would give an impression as though they can get away with such severe punishments by payment of a higher compensation. The learned Additional Advocate General, therefore, contended that any

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indulgence shown to the appellants may not be in the interest of the society and may result as misplaced one.

We fully appreciate such submission made on behalf of the State. While appreciating the submission of the learned counsel for the appellants as well as the learned counsel for the State and looking into the facts of the present case, we find that as noted by the courts below and also as keenly observed by the High Court it was the appellants who were responsible for the occurrence which happened on 31.10.1996 in which four persons of the complainant party were injured. In fact the narration of the occurrence disclosed that while the complainant party were attempting to plough the lands for which they claimed lawful possession, 22-25 persons on the side of the accused party approached them armed with deadly weapons and indulged in the assault in which the said four persons of the complainant party were injured. Even while noting the said conduct of the appellants of the various injuries suffered by the Doctor/PW.8, while

giving his evidence before the Court with particular reference to the MLCs submitted by him in respect of all the four injured has specifically deposed that except injury No.1 suffered by PW.2 and injury No.4 suffered by PW.3 all the other injuries were simple injuries. Even the first injury sustained by PW.2 is an incised wound of 2.5 x 0.5 cm bone deep over dorsal aspect of right wrist with underline swelling and bleeding also present. The movement were stated to be restricted. The fourth injury sustained by PW.3 was also an incised wound of 1.5 x 0.5 c.m. bone deep over upper left leg with bleeding and swelling present. Therefore, even those alleged two grievous injuries were not on the vital parts of the body of PWs.2 and 3. Even the rest of the simple injuries were also on various parts of the body but not on any of vital organs of the injured witnesses, though the number of injuries were more. In such circumstances, we could visualize that even the intention of the appellants appear to only create a scare in the mind of the complainant party and not with a

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view to cause any serious hurt on the body of those injured persons. As noted above, there were long standing litigations between the parties earlier with reference to the property which they stated to have purchased from two sets of people who claimed lawful ownership, namely, from one Harsaran Singh, who according to them was husband of Harpreet Kaur. In the circumstances, it is not a case of fight

between the real estate groups who form themselves into a mafia and fight for such lands belonging to other lawful owners.

In such circumstances, we are of the view that by enhancing the compensation a little more and thereby offsetting whatever prejudice caused to the injured, sentence of imprisonment can be modified. Solely with that view, while confirming the conviction as imposed and as confirmed by the High Court in the impugned judgment, we modify the sentence from two years to one year rigorous imprisonment and simultaneously enhance the compensation payable from Rs.5,000/- to Rs.50,000/-.

We, therefore, direct that the appellants

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pay the enhanced compensation of Rs.50,000/- each after giving credit to the sum of Rs.5,000/- already paid by them and deposit the balance of Rs.45,000/- within four weeks from the date of receipt of a copy of this order. Subject to payment of the said enhanced compensation, the sentence is reduced from two years to one year and the appellants are directed to undergo the remaining part of the said modified sentence. For that purpose, the appellants are directed to surrender within four weeks.

With that modification in the matter of punishment this appeal stands partly allowed. This reduction in the punishment will operate only after the appellants concerned deposit the balance amount of Rs.45,000/- with the learned Trial Judge and on such deposit being made the

learned Judge is directed to disburse the same to the four injured persons equally.

It is needless to mention that in default of payment of enhanced fine the benefit granted under this order, namely, reduction in the period of sentence shall cease to operate.

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With the above observations and directions, the appeal stands partly allowed.

.....J.
[FAKKIR MOHAMED IBRAHIM KALIFULLA]

.....J.
[AMITAVA ROY]

NEW DELHI;
DECEMBER 09, 2015.

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ITEM NO.102 COURT NO.6 SECTION IIB

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

Criminal Appeal No(s). 1871/2009

RANDHIR SINGH & ORS. Appellant(s)

VERSUS

STATE OF PUNJAB Respondent(s)

Date : 09/12/2015 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE FAKKIR MOHAMED IBRAHIM KALIFULLA
HON'BLE MR. JUSTICE AMITAVA ROY

For Appellant(s) Ms. Jaspreet Gogia,Adv.

For Respondent(s) Mr. Jayant K. Sud,AAG, Punjab
Ms. Jasleen Chahal,Adv.
Mr. Ajay P. Tushir,Adv.
Mr. Honey Khanna,Adv.
Mr. Kuldip Singh,AOR

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

The appeal is partly allowed in terms of the signed order.

(NARENDRA PRASAD)
COURT MASTER

(SHARDA KAPOOR)
COURT MASTER

(Signed order is placed on the file)