

[2011] 11 S.C.R. 631

BALJINDER SINGH @ BITTU

v.

STATE OF PUNJAB

(Criminal Appeal No. 1878 of 2011)

SEPTEMBER 28, 2011

[CYRIAC JOSEPH AND T.S. THAKUR, JJ.]

Penal Code, 1860 – ss. 326 and 324 – Conviction of appellant under – Appellant sentenced to rigorous imprisonment for a period of four years and fine of Rs. 5,000/- for commission of offence punishable u/s. 326 and rigorous imprisonment for two years with fine of Rs. 2000/- for commission of offence punishable u/s. 324 by courts below – On appeal, held: It is evident from the material on record that the incident had resulted in injuries to both the parties and the incident took place because of a sudden fight – Nature of the injuries inflicted, the absence of any criminal antecedents of the accused appellant, and the period that has elapsed since the occurrence, all call for a suitable alteration in the sentence awarded to the appellant – Sentence awarded to the appellant u/s. 326 reduced from four years rigorous imprisonment to two years rigorous imprisonment and the amount of fine increased from Rs.5,000/- to Rs.50,000/- – However, sentence and fine u/s. 324 maintained.

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 1878 of 2011.

From the Judgment & Order dated 5.10.2010 of the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No. 375 of 2000.

Mahabir Singh, Vikram Chaudhari, Nikhil Jain and Preeti Singh for the Appellant.

A Harendra Singh, Sandeep Kr. Mishra and Kuldeep Singh
for the Respondent.

The Order of the Court was delivered by

O R D E R

B

T.S. THAKUR, J. 1. Leave granted.

C 2. This appeal arises out of an order dated 5th October,
2010 passed by the High Court of Punjab and Haryana at
Chandigarh whereby the appellant has been convicted and
sentenced to undergo rigorous imprisonment for a period of
four years and a fine of Rs.5,000/- for an offence punishable
under Section 326 of the Indian Penal Code and rigorous
imprisonment for two years with a fine of Rs.2,000/- for an
offence punishable under Section 324 IPC.

D

E 3. When the special leave petition came up for admission
on 11th April, 2011 notice to the respondent was issued by this
Court only on the question of sentence awarded to the appellant.
We have, accordingly heard learned counsel for the parties on
the quantum of sentence awarded to the appellant and perused
the record.

F 4. The incident in question is said to have taken place as
early as in July, 1994. The genesis of the occurrence has no
element of premeditation or other criminal overtones. It arose
out of what was according to the prosecution an unintended and
innocuous straying of the complainant's cart into the paddy field
of Natha Singh, father of Bhupinder Singh and Baljinder Singh,
the appellant. The brothers were enraged by what they thought
was a trespass into the field owned by them and their father.
G ?-

They caught hold of and beat Kulwinder Singh the
complainant, owner of the cart who received two knife blows
on the front of his right chest and a blow in the scapular region.
H The co-accused Bhupinder Singh was also alleged to have

BALJINDER SINGH @ BITTU v. STATE OF PUNJAB 633
[T.S. THAKUR, J.]

given a fist blow at the back of Kulwinder Singh. The incident was witnessed by Bachan Singh PW-2 and Sukhchain Singh who intervened to prevent any further injury to any one of them. At the trial the prosecution adduced evidence that comprised among others the depositions of Kulwinder Singh, PW-1, Bachan Singh, PW 2 and Dr. K.K. Sharma, PW-3. Relying upon the deposition of the said witnesses, the trial Court found both the accused guilty of the offences under Sections 324 and 326 IPC and sentenced the appellant to undergo rigorous imprisonment for a period of four year and two years apart from payment of fine of Rs.5,000/- and Rs.2,000/- respectively for offences punishable under Sections 326 and 324 IPC respectively. In so far as Bhupinder Singh was concerned, the trial Court sentenced him to rigorous imprisonment for a period of three years under Section 326 read with Section 34 IPC and rigorous imprisonment for one year under Section 324 read with Section 34 IPC apart from payment of Rs.2,000/- for the former and Rs.1,000/- for the later offence.

5. The High court on an appeal filed by the accused, acquitted Bhupinder Singh giving him the benefit of doubt but maintained the sentence awarded to the appellant. The High Court found that while Dr. Rattanjit Singh, DW-1 had deposed and certified the appellant having suffered three injuries, one of which sustained on the left side of the forehead was reported to be a grievous injury, in the absence of any x-ray examination and in the absence of any analysis of the cut sustained by the appellant, the injury had to be treated to be a superficial one only. The fact that the incident had resulted in injuries to both the parties is all the same evident from the material on record. Superadded to that is the fact that incident took place because of a sudden fight. The nature of the injuries inflicted, the absence of any criminal antecedents of the accused appellant, and the period that has elapsed since the occurrence, all call for a suitable alteration in the sentence awarded to the appellant. We are further of the opinion that while the sentence could be reduced from four years rigorous imprisonment to two

A years rigorous imprisonment for the offence under Section 326 IPC, the amount of fine could be increased from Rs.5,000/- to Rs.50,000/-. The sentence and fine under Section 324 IPC will, however, remain unaltered. Having regard to the nature of the injuries sustained by Kulwinder Singh the medical expenses that he would have incurred in connection with the treatment of those injuries, we consider it just and proper to award Rs.50,000/- out of the fine amount as compensation under Section 357 of Cr.P.C. to Kulwinder Singh the victim of the assault. The above modification would in our view serve the ends of justice.

C 5. In the result, we allow this appeal but only in part and to the extent that the sentence awarded to the appellant under Section 326 IPC shall stand reduced from four years rigorous imprisonment to two years rigorous imprisonment with a fine of Rs.50,000/-. In the event of default in payment of fine, the appellant shall suffer rigorous imprisonment for a further period for one year. The sentence of imprisonment and fine awarded to the appellant under Section 324 is, however, maintained. We further direct that in case the fine amount is recovered from the appellant, a sum of Rs.50,000/- shall be paid to Kulwinder Singh as compensation under Section 357 of the Code of Criminal Procedure.

N.J.

Appeal allowed.