

Gidder Singh And Another vs State Of Punjab on 9 November, 2009

Author: Ram Chand Gupta

Bench: Ram Chand Gupta

Crl. Revision No.2592 of 2004

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRIMINAL REVISION No. 2592 OF 2004.
DATE OF DECISION : 9 -11-2009.

Gidder Singh and another.

..... PETITIONERS

Versus

State of Punjab.

..... RESPONDENT

CORAM:- HON'BLE MR.JUSTICE RAM CHAND GUPTA

Present: Mr. Jagpal Singh, Advocate
for the petitioners.

Mr. Jaspreet Singh, Asstt. Advocate General, Punjab.

RAM CHAND GUPTA, J.

This revision petition is directed against the judgment dated 01.12.2004 rendered by the court of Additional Sessions Judge, Muktsar, vide which it dismissed the appeal against the judgment of conviction and order of sentence dated 31.01.2002 rendered by the court of Chief Judicial Magistrate, Muktsar, convicting and sentencing the present revision- petitioners as under:-

Name of Convict Offence Sentence of Sentence of Imprisonment in imprisonment
Fine default of fine Gidder Singh 326 IPC R.I. for one year Rs.300/- R.I. for one month 324 IPC R.I. for six - -

months 323/34 IPC R.I. for three - -

months				
Kala Singh	326/34 IPC	R.I. for one year	Rs.300/-	R.I. for one month
	324/34 IPC	R.I. for six months	-	-
	323 IPC	R.I. for three months	-	-

All the substantive sentences were ordered to run concurrently.

2. Briefly put, the case of the prosecution is that on 18.11.1999 at about 4.00 PM, Mukhtiar Kaur wife of Darbara Singh (injured) alongwith her son Jaswinder Singh were going to their house and when they reached near pond, accused Gidder Singh armed with Kappa and accused Kala Singh armed with Dang reached there. Accused Gidder Singh tried to injure Jaswinder Singh with his weapon however, his mother i.e. complainant intervened. Gidder Singh gave a Kappa blow on the left ear of Mukhtiar Kaur due to which, some part of her ear was cut and fell down on the earth and accused Kala Singh gave Dang blow on her left cheek near eye. Jaswinder Singh raised alarm. Gidder Singh gave another Kappa blow to Mukhtiar Kaur which hit her temple near ear. Jaswinder Singh again raised alarm and on hearing the same his brother Nachhattar Singh reached there and the accused ran away with their respective weapons. Motive of the accused to cause injuries to Mukhtiar Kaur was that they had a doubt that Jaswinder Singh had illicit relation with their sister and hence, they intended to cause injuries to Jaswinder Singh. However, when their mother Mukhtiar Kaur intervened, the injuries were caused to her. Mukhtiar Kaur was removed to Civil Hospital, Muktsar where she was medico-legally examined. Surjit Singh, ASI visited the hospital on receiving the medico-legal report after ruqa was sent by the doctor to the police, however, the doctor opined that she was not fit to make the statement and hence, he again visited the hospital on 19.11.2009 and doctor declared her fit to make the statement. He recorded her statement Ex.PA which was thumb marked by the complainant and duly endorsed by ASI Surjit Singh, on the basis of which formal FIR against the accused under Sections 326/324/323/34 IPC was recorded by Kewal Singh, ASI. Investigation were taken in hand and after completion of the investigation report under Section 173 Cr.P.C. was filed for trial of the accused. Accused were charged for the aforementioned offences to which they did not plead guilty and claimed trial.

3. In support of contention, the prosecution examined Mukhtiar Kaur - complainant as PW1, Jaswinder Singh son of Mukhtiar Kaur as PW2, Nachhattar Singh another son of Mukhtiar Kaur as PW3, Surjit Singh, ASI i.e. the Investigating Officer of this case as PW4 and Dr. P.N.Girdhar, SMO Civil Hospital, Muktsar as PW5.

4. Statements of both the accused under Section 313 of Cr.P.C. were recorded in which they denied the incriminating evidence coming against them and claimed to be innocent. However, the revision-petitioners did not lead any evidence in their defence.

5. Learned Trial Court convicted and sentenced the accused as aforementioned as it came to the conclusion that prosecution has been able to prove its case against the accused beyond any shadow of reasonable doubt. The accused - the present revision-petitioners preferred appeal against the said judgment and however, their appeal was dismissed by the court of Sessions and hence, the present revision petition.

6. I have heard Mr. Jagpal Singh, learned counsel for the revision-petitioners and Mr. Jaspreet Singh, Assistant Advocate General, Punjab.

7. It is settled principle of law that in its revisional jurisdiction, this Court is not to reappreciate and reappraise the evidence until and unless, it comes to the conclusion that the findings recorded by the trial court are perverse, illegal and erroneous on account of misreading of evidence. The courts below while relying upon the cogent and convincing evidence of prosecution witnesses, were right in coming to the conclusion that the prosecution had proved its case against the accused beyond a reasonable shadow of doubt.

8. Both the revision-petitioners attacked Mukhtiar Kaur - complainant and her son Jaswinder Singh while they were going together. The accused intended to cause injuries to Jaswinder Singh as he was doubted to have illicit relations with their sister and however, when his mother - complainant intervened, they caused injuries to her. The deposition of Mukhtiar Kaur and both of her sons is consistent on all the material points.

9. It has been argued by the learned counsel for the revision-petitioners that no independent witness was joined in the investigation though it has come in the deposition that some other persons had also collected there. However, merely on the ground that there is no corroboration of deposition of the injured and her sons from an independent witness, it cannot be said that no reliance can be placed upon their testimony. There is nothing as to why they should have deposed falsely against the accused. The other people reached the place of occurrence after injuries were already caused to Mukhtiar Kaur. The deposition of these witnesses is duly corroborated by medical evidence.

10. PW5 Dr. P.N.Girdhar, SMO, Civil Hospital, Muktsar medico-legally examined Mukhtiar Kaur - injured on 18.11.1999 and found following injuries on her person:-

1. Incised wound 5.5 cm x 0.5 cm on the left side of the face in the parotid region just front of the left ear, fresh bleeding was present.

2. Incised wound 3 cm x 1 cm on the lower part of the ear pinna. Left ear louble missing. Fresh bleeding was present.

3. Diffuse swelling, reddish blue in colour 5 cm x 4 cm on the left lower eye lid of left side of face.

11. Injury No.2 was declared grievous in nature vide medico-legal report, copy of which is Ex.PW5/A. However, injury No.3 was declared simple.

12. It has been further argued by the learned counsel for the revision-petitioners that there is delay in lodging the First Information Report. The occurrence had taken place on 18.11.1999 at 4.00 PM whereas statement of injured was recorded on the next morning i.e. 19.11.1999. However, sufficient explanation has come on the record that injured was not fit to make the statement when investigating officer visited the hospital and hence, he again visited the hospital and recorded her statement. Moreover, in view of the fact that deposition of eye-witnesses including injured is consistent and reliable, merely on the ground that there is some delay in lodging the First Information Report, it cannot be said that no reliance can be placed on their testimony.

13. No other point was urged by the learned counsel for the revision-petitioners.

14. Hence, the judgment of conviction rendered by the courts below against the present revision-petitioners do not suffer from any illegality and infirmity and hence, the same are hereby affirmed.

15. However, so far as order of sentence is concerned, both the sharp edged injuries have been attributed to revision-petitioner No.1 - Gidder Singh, who was armed with sharp-edged weapon i.e. Kappa and the injury on the left ear was declared grievous in nature. The revision-petitioner No.2 - Kala Singh caused only a simple blunt weapon injury. The present revision-petitioners were not previous convict. They have been facing trial for the last about 10 years. They have already undergone about 16 days of imprisonment.

16. Hence, sentence of imprisonment awarded to Kala Singh - revision-petitioner No.2 is reduced to the period already undergone by him. However, sentence of fine is enhanced to Rs.5000/- which shall be paid to Mukhtiar Kaur - injured as compensation.

17. Sentence of imprisonment awarded to revision-petitioner No.1

- Gidder Singh by the Trial Court is reduced to R.I. for six months and however, sentence of fine is enhanced to Rs.5000/- which shall also be paid to Mukhtiar Kaur - injured as compensation.

18. With the above modification in the order of sentence, the present revision petition stands disposed of.

17. The bail bonds of revision petitioner No.1 - Gidder Singh stands cancelled. The concerned Chief Judicial Magistrate shall take necessary steps to comply with the judgment with due promptitude keeping in view the applicability of provisions of Section 428 of Code of Criminal Procedure and submit his compliance report within two months.

19. The District and Sessions Judge concerned is also directed to ensure that the directions are complied with and that compliance report is sent within the time limit, to this Court.

(RAM CHAND GUPTA) November 9, 2009. JUDGE 'om'