

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL No(s). 556 of 2009

SAHIB SINGH

Appellant(s)

VERSUS

THE STATE OF PUNJAB

Respondent(s)

J U D G M E N T

A.S. BOPANNA, J. :

(1) The appellant before us is assailing the judgment of the High Court of Punjab and Haryana at Chandigarh in Criminal Appeal No.499 of 2005 dated 23.01.2008. The High Court through the said judgment upheld the judgment of Sessions Case No.20 of 2002 dated 22.02.2005. Both the courts, through the concurrent judgments have convicted the appellant herein for the offence punishable under Section 326 I.P.C. On the quantum of sentence, the High Court while taking note of other aspects and having taken into consideration that the appellant has already undergone more than five years of actual imprisonment has held the same to be sufficient. The High Court has also imposed compensation of a sum of Rs.20,000/-. Being aggrieved, the appellant is before us in this appeal.

(2) We have heard Mr. Saksham Maheshwari, learned counsel appearing for the appellant. We have also heard Mrs. Jaspreet

Gogia, learned counsel appearing for the respondent-State and also perused the impugned judgment and the evidence on record.

(3) From the facts narrate it is seen that an FIR was registered to the effect that on 26.01.2002 at 05:30 p.m. when the complainant-Jagir Singh (PW-3) along with his brother, the deceased-Harbans Singh, was standing at his tube well outside the village near eucalyptus trees, the accused came there with weapons and attacked the deceased. Based on the same, the law was set into motion and the proceedings were initiated against the appellant including other accused who having appeared before the court have stood trial. The prosecution has tendered evidence in the proceedings. It is in that light, the Trial Court has taken note of that aspect and arrived at the conclusion that the charge alleged against the accused more particularly the appellant has been proved and accordingly the conviction as well as sentence was ordered. The appellant claiming to be aggrieved of the order of the Trial Court landed before the High Court. The High Court while reappreciating the evidence has taken into consideration the relied on evidence and has arrived at the conclusion, as noted above.

(4) Mr. Saksham Maheshwari, learned counsel appearing for the appellant, has contended that the appellant herein was not named in the FIR and in that circumstance, the conviction of the appellant-accused is not justified.

(5) Though contentions are put forth, a perusal of the relevant papers/materials discloses that in the further

statement, the appellant has been named of having possessed a *kirpan* and has assaulted the deceased-Harbans Singh. On investigation the charge sheet was filed including the appellant.

(6) In that regard, it would be relevant to take note of the evidence as stated by the complainant-Jagir Singh who was examined as PW-3. The Trial Court has extensively referred to the evidence wherein Jagir Singh (PW-3) has specifically referred to the name of the appellant herein. In addition, the evidence of Bachan Singh (PW-4) also discloses that he has mentioned the name of the appellant. In that circumstances, though there are other sets of accused but insofar as the appellant-accused is concerned when he has been named by the said witnesses, namely, Jagir Singh (PW-3) and Bachan Singh (PW-4), who were also the injured eye-witnesses to the extent that the appellant-accused was armed with *kirpan* and about his over act, the Trial Court and the High Court were justified in relying on their evidence to arrive at their conclusion. If the manner in which the instant occurrence has taken place is taken note and also keeping in view the role of the appellant herein, he has been convicted under Section 326 I.P.C. and the other relevant accused have been convicted under Section 302 I.P.C.

(7) In that circumstance, while the presence of the appellant, possession of *kirpan* and overt act is established through the evidence of the eye-witnesses who were also injured, we are satisfied that the Trial Court as well as the High Court having

taken note of the evidence has appropriately arrived at their conclusion and, therefore, we see no reason to interfere with the conclusion reached through the impugned judgment.

(8) In that view of the matter, the appeal is devoid of merit and is accordingly dismissed.

.....J.
(R. BANUMATHI)

.....J.
(A.S. BOPANNA)

NEW DELHI,
JULY 31, 2019.