

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

CRA-S-2078-SB of 2003 (O&M)
Date of decision: 22.04.2015

Paramjit Singh

-----Appellant(s)

V/s

State of Punjab

-----Respondent(s)

and connected appeal being CRA-S-2188-SB of 2003 (O&M)

Ajit Singh and others

----- Appellant(s)

V/s

State of Punjab

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Vivek Thakur, Advocate
for the appellant(s).

Mr. Sultan Singh Gill, DAG, Punjab.

Mr. Parveen Sharma, Advocate for the complainant.

HARI PAL VERMA, J (Oral).

This order shall dispose of two criminal appeals i.e. CRA-S-2078-SB of 2003 and CRA-S-2188-SB of 2003 which have arisen out of common judgment dated 30.10.2003 as well as order of quantum of sentence dated 31.10.2003 passed by learned Additional Sessions Judge, (Fast Tract Court),

Kapurthala, whereby the appellants in both the appeals were convicted under Section 148, 307, 506/149 IPC and have been sentenced to undergo maximum sentence of seven years along with payment of fine.

As per the case of the prosecution, on 11.10.2001, the complainant Sarabjit Singh along with Kuljit Kumar son of Kundan Lal were going to High School of Village Bhopa Rai for weight lifting practice, as both of them were kabaddi players. They were on a scooter which was being driven by Kuljit Kumar and the Sarabjit Singh, complainant, was sitting pillion. It was at about 5.45 a.m., Balwinder Singh, accused, who was following them on scooter, all of a sudden took his scooter in front of the scooter driven by Kuljit Kumar near the sugarcane field of Resham Singh and stopped him. Then, accused Ajit Singh and Bagicha Singh, Kulwant Singh and Gurwant Singh, who were armed with *dangs*, along with accused Pammi and Bhima, armed with *dangs* fitted with iron nail (sua) and accused Paramjit Singh armed with *kirpan*, came out of the sugarcane field. Accused Ajit Singh raised *lalkara* that Kuljit Kumar should not be spared and he be taught a lesson for filing a case against them. Accused Paramjit Singh also threatened Sarabjit Singh to kill him if he wanted to save Kuljit Kumar. Then, Kulwant Singh gave two *dang* blows on the right leg of Kuljit Kumar. Balwinder Singh brought an iron road from his scooter and struck it on the head of Kuljit Kumar, as a result of which, Kuljit Kumar fell down on the ground and accused Bhima

gave 5 blows of *dangs* fitted with iron nails on his left leg. Then, accused Pammi, Gurwant Singh, Ajit Singh, Bagicha Singh repeatedly gave blows on various parts of the body of Kuljit Kumar. In the meantime, Jaswinder Kumar, the elder brother of Kuljit Kumar, who was going towards the fields to answer the call of nature, came to the spot and witnessed the occurrence. He requested the accused to spare his brother, at which, the accused left the spot along with their respective weapons. The injured was shifted to Civil Hospital, Begowal by Jaswinder Kumar and Manoj Kumar, from where, he was referred to Civil Hospital, Kapurthala. The injured was medically examined and 30 injuries from blunt weapon were found on his person, out of which, injury no.6 was declared grievous while others kept under observation. On receipt of M.L.R., ASI Gurmukh Singh visited the Civil Hospital, Kapurthala, but the doctor declared the patient unfit to give statement. In the evening, while ASI Gurmukh Singh along with other officials were present on the *naka* at Village Kumravan, then Sarabjit Singh, complainant met him and got his statement recorded, on the basis of which, the FIR was registered. On receipt of x-ray report, injuries No.7, 10, 29 and 30 were declared grievous while other injuries were declared simple.

After completion of investigation, challan was presented against the accused-appellants in the Court of learned Judicial Magistrate Ist Class, Kapurthala, who supplied the copies of documents to the accused, as required under Section 207

CrPC and the case was committed to the Court of Sessions Judge, Kapurthala for trial.

Finding *prima facie* case being made out against the accused-appellants, learned Additional Sessions Judge framed charges against all the accused, who pleaded not guilty and claimed trial.

On the basis of evidence adduced by the prosecution and taking into account of the medical evidence, learned Additional Sessions Judge, vide judgment dated 30.10.2003 convicted the accused-appellants under Section 148, 307, 506/149 IPC and vide order dated 31.10.2003, sentenced them as under:-

"1.	Ajit Singh	
	u/s 307/149 IPC	To undergo R.I. for seven years and to pay a fine of Rs.1,000/-. In default of payment of fine, to undergo further RI for two months.
	u/s 148 IPC	To undergo R.I. for two years and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.
	u/s 506/149 IPC	To undergo R.I. for one year and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.
2.	Balwinder Singh	
	U/s 307/149	To undergo R.I. for seven years

	<i>IPC</i>	<i>and to pay a fine of Rs.1,000/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 148 IPC</i>	<i>To undergo R.I. for two years and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 506/149 IPC</i>	<i>To undergo R.I. for one year and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
3.	<i>Bagicha Singh</i>	
	<i>U/s 307/149 IPC</i>	<i>To undergo R.I. for seven years and to pay a fine of Rs.1,000/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 148 IPC</i>	<i>To undergo R.I. for two years and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 506/149 IPC</i>	<i>To undergo R.I. for one year and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
4.	<i>Kulwant Singh</i>	
	<i>U/s 307/149 IPC</i>	<i>To undergo R.I. for seven years and to pay a fine of Rs.1,000/-. In default of payment of fine, to undergo further RI for two</i>

		<i>months.</i>
	<i>u/s 148 IPC</i>	<i>To undergo R.I. for two years and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 506/149 IPC</i>	<i>To undergo R.I. for one year and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
5.	<i>Gurwant Singh</i>	
	<i>U/s 307/149 IPC</i>	<i>To undergo R.I. for seven years and to pay a fine of Rs.1,000/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 148 IPC</i>	<i>To undergo R.I. for two years and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 506/149 IPC</i>	<i>To undergo R.I. for one year and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
6.	<i>Harwinder Singh</i>	
	<i>U/s 307/149 IPC</i>	<i>To undergo R.I. for seven years and to pay a fine of Rs.1,000/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 148 IPC</i>	<i>To undergo R.I. for two years</i>

		<i>and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 506/149 IPC</i>	<i>To undergo R.I. for one year and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
<i>7.</i>	<i>Balwant Singh</i>	
	<i>U/s 307/149 IPC</i>	<i>To undergo R.I. for seven years and to pay a fine of Rs.1,000/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 148 IPC</i>	<i>To undergo R.I. for two years and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 506/149 IPC</i>	<i>To undergo R.I. for one year and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.</i>
<i>8.</i>	<i>Paramjit Singh</i>	
	<i>U/s 307/149 IPC</i>	<i>To undergo R.I. for seven years and to pay a fine of Rs.1,000/-. In default of payment of fine, to undergo further RI for two months.</i>
	<i>u/s 148 IPC</i>	<i>To undergo R.I. for two years and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two</i>

		<i>months.</i>
	<i>u/s 506/149 IPC</i>	<i>To undergo R.I. for one year and to pay a fine of Rs.500/-. In default of payment of fine, to undergo further RI for two months.”</i>

At the outset, learned counsel for the appellants has submitted that now, with the intervention of the respectables, a compromise has been effected between the parties. Moreover, in the present case, the FIR was registered on 11.10.2001 and as against the maximum sentence of seven years awarded to the appellants, they are already in custody ranging from 11 months to 14 months. Learned counsel further submitted that in view of the fact that the injured Kuljit Kumar has arrived at a compromise with the appellants, he has no objection if the sentence of the appellants is reduced to the period already undergone by them. In support of his contention, learned counsel has relied upon a judgment of Hon’ble the Apex Court in the case of **Gulab Dass v. State of M.P.** 2011(10) SCC 765, wherein the while upholding the conviction, the sentence awarded to the appellants-therein, was reduced to the sentence already undergone by them. Relevant paragraphs of the said judgment read thus:-

“8. Having said that we are of the view that the settlement/compromise arrived at between the parties can be taken into consideration for the purpose of determining the quantum of sentence to be

awarded to the appellants. That is precisely the approach which this Court has adopted in the cases referred to above. Even when the prayer for composition has been declined this Court has in the two cases mentioned above taken the fact of settlement between the parties into consideration while dealing with the question of sentence. Apart from the fact that a settlement has taken place between the parties, there are few other circumstances that persuade us to interfere on the question of sentence awarded to the appellants. The incident in question had taken place in the year 1994. The parties are related to each other. Both Appellant nos. 2 and 3 were at the time of the incident in their twenties. It is also noteworthy that the incident had led to registration of a cross case against the complainant party in which the trial Court has already convicted Veeraji and others for offences punishable under Sections 325/34 and 323 IPC and sentenced them to undergo imprisonment for a period of two years and a fine of Rs.300/- and imprisonment of six months under Section 323 IPC. We are told that the parties having settled the matter, will approach the High Court for an appropriate order in the appeal pending before it. More so, the appellants have already served substantial part of the sentence awarded to them.

9. In the totality of the circumstances we are of the view that the settlement arrived at between the parties is a sensible step that will benefit the parties, give quietus to the controversy and rehabilitate and normalise the relationship between them.

10. *In the result, while upholding the order of conviction recorded by the Courts below, we reduce the sentence awarded to the appellants to the sentence already undergone by them. The appeal is to that extent allowed and the impugned orders modified. The appellants shall be set free forthwith if not otherwise required in any other case.”*

Reliance has also been placed on a judgment of this Court in the case of **Inderjit @ Inder v. State of UT Chandigarhb** 2011(1) RCR (Criminal) 234, wherein the parties had entered into a compromise at appellate stage and this Hon'ble Court has reduced the sentence to the period already undergone on the basis of said compromise in a case under Section 307 IPC.

Learned counsel for the complainant has also put in appearance and does not dispute the factum of compromise entered between the parties. He submitted that the complainant has no objection if the sentence of the appellants is reduced to the period already undergone by them.

At this stage, we may refer to the relevant part of the compromise so effected between the parties, which reads thus:-

“XX XX XX XX XX

That since in all the abovesaid cases, the complainant and the accused belong to one village and with the intervention of the respectable, the matters have been compromised and subsequently the compromise has

been effected in the abovesaid complaint. Now the parties want to enforce compromise in the appeal pending before the Addl. Sessions Judge, Kapurthala Smt. Gurmit Kaur and also in the criminal appeal pending before the Hon'ble High Court, so that harmony and peace remains between the parties and their relations would remain cordial between the parties for the future time to come. The parties will remain bound by the above said compromise and will not file any claim or counter claim petitions against each other."

Learned State counsel does not dispute the genuineness of the compromise. Moreover, vide affidavit dated 27.3.2014 of Sarabjit Rai, PPS, DSP, Sub Division Bholath, Distt. Kapurthala, it is mentioned that "the deponent has verified personally that the parties have effected compromise without any duress, allurement or pressure."

Accordingly, the conviction of the appellants under Section 148, 307, 506/149 IPC is maintained, however, the sentence qua imprisonment of the appellants is reduced to the period already undergone by them.

April 22, 2015
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(HARI PAL VERMA)
JUDGE