

CRA-S-1203-SB of 2007

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

CRA-S-1203-SB of 2007 (O&M)
Date of decision: 08.07.2015

Gurinder Singh and another

....Appellants

Versus

State of Punjab

....Respondent

CRA-S-1405-SB of 2007 (O&M)

Baljit Singh

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: - Mr. H.S. Gill, Sr. Advocate, with
Mr. R.K. Dhiman, Advocate, for the appellants
(in CRA-S-1203-SB of 2007).
Mr. Anterpreet Singh, Advocate, for the appellant
(in CRA-S-1405-SB of 2007).
Mr. S.S. Chandumajra, DAG, Punjab.

PARAMJEET SINGH, J. (ORAL)

Crl. Misc. No.11552 of 2015

After hearing learned counsel for the parties and for the
reasons mentioned in the Crl. Misc. application, same is allowed.

Mandeep Singh son of Avtar Singh is impleaded as respondent No.2.

Registry to make necessary correction in the memo of parties.

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Crl. Appeal No. S-1203-SB of 2007

This order shall dispose of CRA-S-1203-SB of 2007 titled 'Gurinder Singh and another v. State of Punjab (wrongly mentioned as State of Haryana in the memo of parties)' and CRA-S-1405-SB of 2007 titled 'Baljit Singh v. State of Punjab' as challenge in both the appeals is to the judgment of conviction and order of sentence dated 21.05.2007 passed by learned Additional Sessions Judge (Adhoc), Jalandhar, whereby appellants have been convicted and sentenced as under: -

<i>“U/s</i>	<i>Imprisonment & fine In default</i>	
<i>307 IPC</i>	<i>R.I. for 5 years</i>	<i>R.I. for 6 months</i>
	<i>& ₹ 2,000/-</i>	
<i>324 IPC</i>	<i>R.I. for 1 year”</i>	

Both the sentences have been ordered to run concurrently.

I need not dilate upon the facts of this case in detail, however, facts relevant for the disposal of these appeals are to the effect that on 03.11.2004 a telephonic message was received from Police Station Division No.8, Ludhiana that one Mandeep Singh son of Avtar Singh was admitted in DMC, Ludhiana in an injured condition. Thereafter FIR was registered on the statement of Avtar Singh on the ground that on 08.11.2004 he along with his son Mandeep Singh was present in village Nagar, in connection with personal work. His son Mandeep Singh went to the shop of Madan Haircutting in order to get his hair cut and in the meantime, the complainant started purchasing pipes from nearby shop. At about 10.00 a.m. Gurinder Singh son of Bawa Singh

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resident of Ladhara, Bhupinder Singh son of Harbhajan Singh resident of Ladhra, Sukhdeep Singh son of Naranjan Singh resident of Chhoran along with two unknown persons came on their motorcycles and they parked their motorcycles outside Madan Haircutting shop. Gurinder Singh, Bhupinder Singh and Sukhdeep Singh were armed with kirpans, whereas two unidentified persons were armed with deters. The two unidentified persons while entering the shop of Madan Haircutting started giving dater blows to the son of the complainant. He was dragged out of the shop and Bhupinder Singh, Gurinder Singh and Sukhdev Singh started giving kirpan blows on the person of Mandeep Singh son of the complainant. When complainant tried to rescue his son from their clutches, they threw the complainant on the ground and threatened that they will teach a lesson to the son of the complainant. All the accused gave injuries to Mandeep Singh on different parts of his body with their respective weapons. Earlier some dispute took place between the son of the complainant and the accused, the same was got compromised by the respectables. Son of the complainant was taken to Civil Hospital, Phillaur, from where he was referred to DMC, Ludhiana. The injured was got medically examined. Statements of PWs were recorded and on completion of the investigation, challan against all the accused was present in the Court of Illaqa Magistrate, who after supplying the copies of the documents as referred to in Section 207 Cr.P.C., committed the case to the Court of Sessions.

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In order to prove its case, prosecution examined Mandeep Singh as PW1, complainant Avtar Singh as PW2, Dr. Gautam Biswas as PW3, ASI Kewal Singh as PW4, HC Harjinder Singh as PW5, HC Simarjit Singh as PW6 and Tara Singh Momi, draftsman as PW7.

Statements of the accused were recorded under Section 313 Cr.P.C. They denied allegations of the prosecution and pleaded their false implication. In defence they led no evidence.

On appreciation of evidence appellants were sentenced and convicted as aforesaid by learned Additional Sessions Judge (Adhoc), Jalandhar, vide judgment of conviction and order of sentence dated 21.05.2007. Hence, present appeals.

I have heard the learned counsel for the parties and perused the record.

Learned counsel for the appellants state that they are not pressing the appeals on merit and are not challenging the conviction on merit. They are only aggrieved against the sentence part. However, they pray that the sentence of the appellants be suitably reduced as this criminal trial is hanging on their heads like damocle's sword for the last 11 years and it should be a sufficient mitigating circumstance to treat them leniently. Learned counsel for the appellants have further submitted that the FIR pertains to the year 2004 and since then a period of about 11 years has elapsed. The appellants have suffered the ordeal for long period. Learned counsel for the appellants further submit that appellants and the complainant are the co-villagers. Compromise has

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taken place between the parties and complainant has also been suitably compensated. Further the learned counsel for the appellants rely upon the judgment of Hon'ble Supreme Court in ***Ishwar Singh v. State of Madhya Pradesh, 2009(1) R.C.R.(Criminal) 1.***

Learned counsel for the State vehemently opposed the reduction in sentence.

Ancient penological approach was custodial measure to curb crime. But in modern days, penological approach should be balanced keeping in view the needs of the community and interests of the accused: such as compensation to the victims, release on admonition, probation etc. These are being adopted to reform the criminal convicts. The object of criminal justice system is to reform the offenders and to make them see and follow the right path. Otherwise also jails are often overcrowded.

In view of the arguments advanced by learned counsel for the appellants, which have been noted above, this Court is of the view that no useful purpose will be served by sending the appellants behind the bars further as appellants have faced ordeal for a long period and parties have compromised the matter. It is a fit case wherein sentence awarded to the appellants can be reduced to already undergone. Ordered accordingly. The impugned judgment of conviction and order of sentence and, including default clause, stand affirmed with aforesaid modification. It goes without saying that if the amount of fine is not

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deposited, the appellants will serve the remaining part of sentence.

Appellants are stated to be on bail. With the observations made above, present appeals are disposed of.

(Paramjeet Singh)
Judge

July 08, 2015
R.S.