

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA No.D-838-DB of 2009 (O&M)

Date of decision:19.10.2015

Jagjit Singh and others Appellants

Versus

State of Punjab Respondent

CRA No.S-2304-SB of 2009 (O&M)

Sukhchain Singh Appellants

Versus

State of Punjab Respondent

CRR No.138 of 2010 (O&M)

Amrik Singh son of Sarwan Singh Petitioner

Versus

State of Punjab and others Respondents

CORAM: Hon'ble Mr. Justice S.S. Saron.
Hon'ble Mr. Justice Amol Rattan Singh

Present: Mr. S.P.S.Sidhu, Advocate for the appellants.
Mr. P.P.S.Thethi, Addl. AG, Punjab for the State.
Ms.Gaganjot Kaur, Advocate for
Mr. Manvinder Singh Sidhu, Advocate
for the complainant.

S.S. Saron, J

This order will dispose of CRA No.D-838-DB of 2009,
CRA No.S-2304-SB of 2009 and CRR No.138 of 2010 as these
relate to the same occurrence. CRA No.D-838-DB of 2009 and
CRR No.138 of 2010 arise out of the same judgment and order
dated 16.09.2009 passed by the learned Additional Sessions

Judge, Ferozepur. Jagjit Singh and others (appellants in CRA No.D-838-DB of 2009) have been convicted by the learned Additional Sessions Judge, Ferozepur vide judgment dated 06.09.2009 for the offences punishable under sections 148, 302, 302/149, 326, 326/149, 323, 323/149 of the Indian Penal Code ('IPC' - for short). By a separate order passed on 16.9.2009, they have been sentenced in the following manner:-

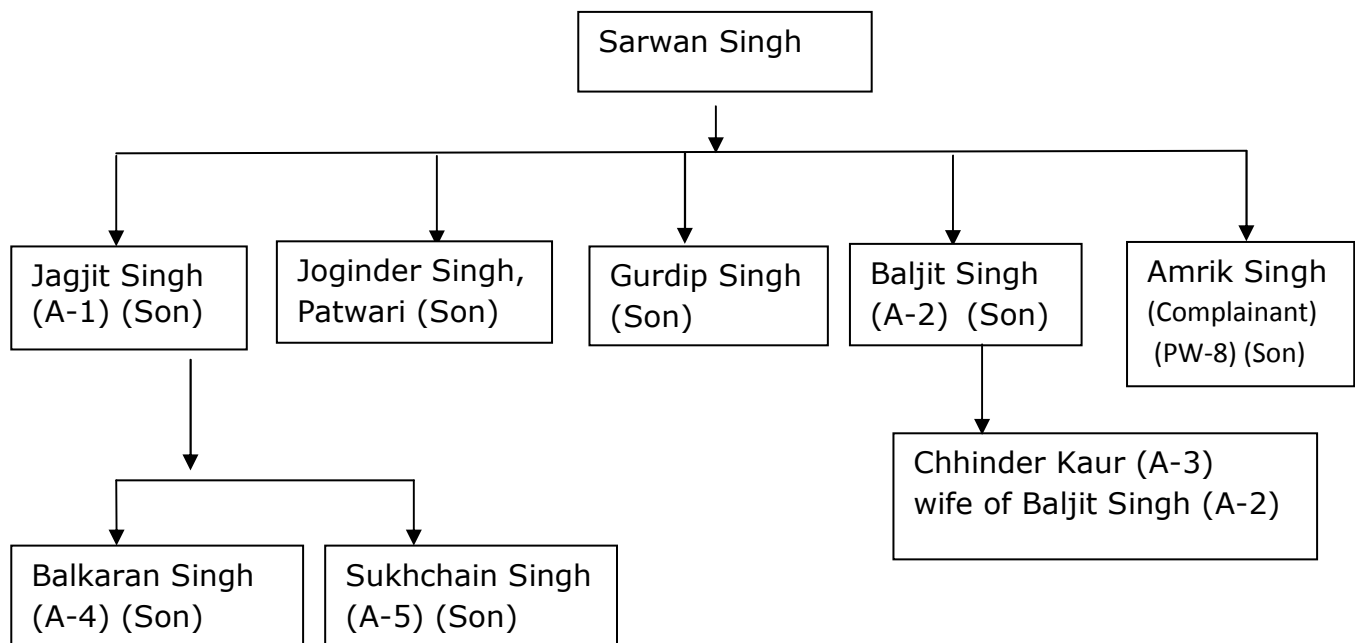
Name of Convicts	Sentenced to RI	Under Sections	Fine of Rs.	In default of payment of fine
Jagjit Singh son of Sarwan Singh	2 years Life Imprisonment 7 years 3 years 6 months 6 months 6 months 6 months 6 months	148 IPC 302 IPC 307/149 IPC 326/149 IPC 323/149 IPC 323/149 IPC 323 IPC 323/149 IPC 323/149 IPC	- 5000/- 3000/- 1000/- - - - - -	- 1 year 1 year 6 months
Baljit Singh son of Sarwan Singh	2 years Life Imprisonment 7 years 3 years 6 months 6 months 6 months 6 months 6 months	148 IPC 302 IPC 307/149 IPC 326/149 IPC 323/149 IPC 323 IPC 323/149 IPC 323/149 IPC 323/149 IPC	- 5000/- 3000/- 1000/- - - - - -	- 1 year 1 year 6 months
Balkaran Singh son of Sarwan Singh	2 years Life Imprisonment 7 years 3 years 6 months 6 months 6 months 6 months 6 months	148 IPC 302 IPC 307/149 IPC 326/149 IPC 323 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC	- 5000/- 3000/- 1000/- - - - - -	- 1 year 1 year 6 months
Sukhchain Singh son of Jagjit Singh	2 years Life Imprisonment 7 years 3 years 6 months 6 months 6 months 6 months 6 months	148 IPC 302 IPC 307/149 IPC 326 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC	- 5000/- 3000/- 1000/- - - - - -	- 1 year 1 year 6 months

Jagjit Singh son of Koer Singh	2 years Life Imprisonment 7 years 3 years 6 months 6 months 6 months 6 months 6 months	148 IPC 302/149 IPC 307/149 IPC 326/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC	- 5000/- 3000/- 1000/- - - - - -	- 1 year 1 year 6 months
Chinder Kaur Wife of Baljit Singh	2 years Life Imprisonment 7 years 3 years 6 months 6 months 6 months 6 months 6 months	148 IPC 302/149 IPC 307/149 IPC 326/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC	- 5000/- 3000/- 1000/- - - - - -	- 1 year 1 year 6 months
Lakhwinder Singh son of Darshan Singh	2 years Life Imprisonment 7 years 3 years 6 months 6 months 6 months 6 months 6 months	148 IPC 302/149 IPC 307 IPC 326/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC	- 5000/- 3000/- 1000/- - - - - -	- 1 year 1 year 6 months
Nirmal Singh son of Karnail Singh	2 years Life Imprisonment 7 years 3 years 6 months 6 months 6 months 6 months 6 months	148 IPC 302/149 IPC 307/149 IPC 326/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323 IPC	- 5000/- 3000/- 1000/- - - - - -	- 1 year 1 year 6 months
Harbhajan Singh son of Karnail Singh	2 years Life Imprisonment 7 years 3 years 6 months 6 months 6 months 6 months 6 months	148 IPC 302/149 IPC 307/149 IPC 326/149 IPC 323/149 IPC 323/149 IPC 323/149 IPC 323 IPC 323/149 IPC	- 5000/- 3000/- 1000/- - - - - -	- 1 year 1 year 6 months

Sukhchain Singh (appellant in CRA No.2304-SB of 2009) has also been convicted for the offence under Section 25 of the Arms Act and sentenced to rigorous imprisonment of three years; besides, pay a fine of Rs.2000/- and in default thereof undergo rigorous imprisonment of six months.

Amrik Singh, complainant has filed CRR No.138 of 2010 praying for enhancement of the sentences imposed on respondents No.2 to 10 in the said revision petition.

In order to understand the facts of the case, the following pedigree table of the parties may be noticed:-



The appellants and the complainant have been marked as A-1, A-2 and complainant etc. on the above pedigree table according to criminal appeal No.D-838-DB of 2009 from which the facts also have been mainly taken.

A perusal of the above table shows that Jagjit Singh (appellant No.1) and Baljit Singh (appellant No.2) are the brothers of complainant Amrik Singh (PW-8); besides, Balkaran Singh and Sukhchain Singh (appellants No.4 and 5) are the sons of Jagjit Singh (appellant No.1) and Chinder Kaur (appellant No.3) is the wife of Baljit Singh (appellant No.2). Joginder Singh, Patwari and Gurdip Singh are the brothers of Jagjit Singh and Baljit Singh (appellants No.1 and 2) as also that of the Amrik Singh (complainant/PW-8). Apart from the above, the others are

Jagjit Singh (appellant No.6) son of Koer Singh who is the son-in-law of Jagjit Singh (appellant No.1), Lakhwinder Singh alias Lakha (appellant No.7), Nirmal Singh (appellant No.8) and Harbhajan Singh (appellant No.9) were also accused and have been convicted as detailed above.

FIR in the case has been registered on the statement (Ex.P-23) of Amrik Singh, (complainant/PW 8). According to the complainant, he had been a resident of village Gaddan Dob, Police Station Sadar Abohar, District Ferozepur (now District Fazilka) and did agriculture work. They were five brothers; the eldest is Jagjit Singh (appellant No.1); younger to him is Joginder Singh, Patwari; then Gurdip Singh; Baljit Singh (appellant No.2) and Amrik Singh (complainant/PW-8) was the youngest. Joginder Singh, Patwari brother of the complainant and his family resided at Abohar. The other four brothers resided in the village i.e. village Gaddan Dob. About four years earlier to his lodging the complaint, which was lodged on 08.05.2006, the brothers had partitioned their land in village Gaddan Dob by way of a family settlement. Joginder Singh, Patwari got four and a half acres of land while the other four brothers got five acres of land each.

All the brothers also owned about 25 bighas of land at Chak No.74-RB, Tehsil Rai Singh Nagar (Rajasthan). Jagjit Singh (appellant No.1) used to cultivate the said land. After partition of the land by way of writing at village Gaddan Dob, they got their share from the land situated in Rajasthan from Jagjit Singh

(appellant No.1). Both Jagjit Singh and Baljit Singh (appellants No.1 and 2) were married to two sisters at village Mallan, Police Station Kot Bhai. When the brothers got their share from Jagjit Singh and Baljit Singh (appellants No.1 and 2) in the land situated at Rajasthan, their family was divided into two factions. One faction comprised of Jagjit Singh and Baljit Singh (appellants No.1 and 2) while the other comprised of Amrik Singh (complainant/PW 8), besides, his brothers Joginder Singh, Patwari and Gurdip Singh.

In the family settlement that was reached at, out of the land which came to the share of Amrik Singh (complainant/PW-8), one 'killla' (acre) of land was recorded as the ownership of Baljit Singh (appellant No.2). Baljit Singh (appellant No.2) had started demanding this one 'killla' (acre) of land from the complainant. Regarding the said one 'killla' (acre) of land, Jagjit Singh and Baljit Singh (appellants No.1 and 2) were picking up quarrels with the complainant for the last one year i.e. one year from 08.05.2006. Due to the said dispute, they had inflicted injuries to the brother of the complainant namely Joginder Singh, Patwari about nine - ten months earlier. Regarding this, a criminal case was registered at Police Station City Abohar. Thereafter, the police of Police Station Sadar Abohar proceeded against both the parties under Section 107/151 of the Code of Criminal Procedure ('Cr.P.C.' - for short). Sureties were furnished in the said proceedings in the beginning of the eighth month of the previous year.

The disputed one 'killa' (acre) of land was in possession of the complainant Amrik Singh; however, Baljit Singh (appellant No.2) had filed a civil suit in the Civil Court for getting a stay. The complainant also filed an application in the Court of Tehsildar (Assistant Collector IInd Grade) at Abohar for getting the 'girdwari' corrected and entered in his name on the basis of his possession in respect of the land comprised in Rectangle No.113, Khasra No.18. The Tehsildar, Abohar was to visit the spot. The complainant due to the visit of the Tehsildar for spot inspection had called some persons from his in-laws. The complainant also cultivated the land of his brother Joginder Singh, Patwari on contract basis. The complainant along with his brother in law Syala Singh (injured), Balvir Singh (PW-11) sons of Mal Singh and brother-in-law from his brotherhood namely Veer Singh (deceased in the case) son of Kartar Singh and Jagpal Singh son of Naib Singh as also Harbhajan Singh son of Nihal Singh residents of village Mallan, Police Station Kot Bhai were sitting near the hut that was constructed in the land of his brother Joginder Singh, Patwari. They were waiting for the Tehsildar there. Veer Singh (deceased) was carrying his licensed .405 bore rifle. The time would be about 5.30 pm then Balkaran Singh alias Karna (appellant No.4) son of Jagjit Singh (appellant No.1) was seen coming from the side of the village on his tractor. A 'Tata Sumo' vehicle was following behind the tractor of Balkaran Singh (appellant No.4). Immediately on reaching there, Balkaran Singh (appellant No.4) started to plough the cotton

('narma') crop of the complainant in the disputed land. The complainant signalled to him (Balkaran Singh) as to why was he doing so. In the meantime, the 'Tata Sumo' vehicle that was following the tractor from behind stopped at a distance of 2/2½ 'Killas' (measurement of distance in acres) from the hut.

The brother of the complainant, namely, Jagjit Singh (appellant No.1) armed with a 'takua' got down from the 'Tata Sumo' vehicle. His son Sukhchain Singh (appellant No.5) was armed with a 'kirpan', Baljit Singh (appellant No.2), brother of the complainant, was armed with a 'dang', Chhinder Kaur (appellant No.3) wife of Baljit Singh (appellant No.2) was empty handed. They were accompanied by the real cousin of the complainant namely Nirmal Singh (appellant No.8) son of Karnail Singh who was armed with a 'danda'. Harbhajan Singh (appellant No.9) resident of 'Pacca Seed Farm', Abohar was armed with a 'kappa'; besides, there were two more persons whose names the complainant did not know. However, the complainant and his companions could identify them if they came in front of them. One of them was armed with a pistol. They ran towards the complainant side after getting down from the vehicle. On seeing them coming, Balkaran Singh (appellant No.4), armed with a 'Kappa', left his tractor in the field and joined them.

The assailants did not allow the complainant side to understand the situation. Chhinder Kaur (appellant No.3) and the unidentified persons, who were empty handed, raised a

'lalkara' that their 'girdwari' should be corrected on that day. All the five from the complainant side stood up after seeing the assailants. Veer Singh (deceased) was still to stand, that Baljit Singh (appellant No.2) inflicted a 'dang' blow on the back of his neck. He (Veer Singh) fell on his face to the ground. Sukhchain Singh (appellant No.5) lifted the rifle which Veer Singh (deceased) was carrying in his hand. Then Jagjit Singh (appellant No.1) inflicted a 'takua' blow from its reverse side on the back of the left shoulder of Veer Singh (deceased). Balkaran Singh (appellant No.4) inflicted four-five blows from the reverse side of the 'kapa' on the waist of Veer Singh (deceased). Veer Singh (deceased) fell on his face and became unconscious. He had just got up and an unidentified person fired a shot with his pistol with an intention to kill them. The shot on the left buttock of Balvir Singh (PW-11).

All the assailants then attacked them. Harbhajan Singh (appellant No.9) inflicted a 'kappa' blow from its reverse side towards the complainant. The complainant raised his hand to ward off the blow and save himself. The blow hit the ring finger of his left hand. Harbhajan Singh (appellant No.9) inflicted another blow with the reverse side of the 'kapa' which hit on the head of the complainant. Chhiata Singh (PW-9) came forward in order to save them. Then Balkaran Singh (appellant No.4) inflicted a 'kapa' blow from its reverse side on the back of his head. Sukhchain Singh (appellant No.5) inflicted two blows with his 'kirpan' on Chhiata Singh (PW-9), which hit him on the left

hand side. Nirmal Singh (appellant No.8) and Baljit Singh (appellant No.2) inflicted a blow each turn by turn which hit Chhiata Singh (PW-9) on the left side of his chest and on the left side of his back. Jagjit Singh (appellant No.1) inflicted a blow with the reverse side of the 'takua' that he was carrying on the back side of the lower leg of Chhiata Singh (PW-9). They all along with Jagpal Singh and Harbhajan Singh, who had not sustained any injury, raised an alarm of 'na maro-na maro'. Chhinder Kaur (appellant No.3) asked the assailants to get away as Veer Singh it seemed had died. The assailants along with their respective weapons started running towards the 'Tata Sumo' vehicle.

While going Sukhchain Singh (appellant No.5) fired two shots from the rifle which he had snatched from the complainant side. It was fired with an intention to kill; besides, threats of dire consequences were held out if the matter was reported to the police. All the six were taken to Civil Hospital, Abohar for treatment in the car of Jagpal Singh in which the complainant side had gone to the fields. On the way to the hospital, Veer Singh succumbed to his injuries. All the assailants had fled away from the spot on their tractor and 'Tata Sumo' vehicle. They took their respective weapons with them. The said accused in connivance with each other and armed with their respective weapons had murdered Veer Singh. They had also inflicted injuries to the complainant Amrik Singh (PW-8), Chhiata Singh (PW-9) and Balvir Singh (PW-11); besides, fired shots

towards them with the rifle of Veer Singh with an intention to kill them. Legal action was asked to be taken.

The statement of the complainant Amrik Singh (PW-8) was recorded on which he put his left thumb impression and it was attested by SI Jaspal Singh, SHO Police Station Sadar Abohar (PW-12) on 08.05.2006.

Police proceedings were recorded by SI Jaspal Singh (PW-12) to the effect that he was present at the Police Station on 08.05.2006 and at about 8.55 pm a medical 'ruqa' (memo) No.5022 dated 08.05.2006 was received from Civil Hospital, Abohar along with MLR in respect of Balbir Singh (PW-11) son of Mal Singh and Syala Singh son of Mal Singh residents of Mallan; besides, Amrik Singh son of Sarwan Singh resident of Gaddan Dob. According to the 'ruqa' (memo) Veer Singh son of Kartar Singh resident of Chak Amargarh Dakhli Mallan had died. On receiving this information, SI/SHO Jaspal Singh (PW-12) along with other police officials in Government 'Gypsy' driven by Constable Baldev Singh proceeded from the Police Station and reached Civil Hospital, Abohar. The dead body of Veer Singh was lying in the dead house. The other three injured were in the hospital.

A written opinion was sought from the doctor for recording their statements. The doctor declared the injured fit to make statements. On this, the statement of Amrik Singh (PW-8) was recorded. The same was read over to him and he after admitting the same to be correct put his left thumb impression

on it, which was attested by SI/SHO Jaspal Singh (PW-12). From the aforesaid statement, 'ruqa' (memo) and injuries shown in the medico-legal report (MLR), offences under Sections 302, 307, 397, 324, 323, 148 and 149 IPC; besides, Sections 25 and 27 of the Arms Act were found to be made out. The statement was sent to the Police Station through Balbir Singh Constable No. 2616 (PW-16) for registration of a case (FIR). Its number was asked to be intimated; besides, the Police Control Room was also asked to be informed. Special reports were also asked to be issued. The proceedings were recorded by SI/SHO Jaspal Singh (PW-12) at Civil Hospital, Abohar at 10.30 pm.

At the Police Station on receipt of the statement of Amrik Singh, (complainant/PW-8), FIR (Ex.P31) was registered for the aforesaid offences by ASI Narinder Pal Singh. The case file was sent to SI/SHO Jaspal Singh (PW-12) for investigation through the Constable who had brought the file. The Police Control Room, Ferozepur was being informed through wireless message. Special reports were being sent to the 'Illaq' (Area) Magistrate and Higher Officers through Constable Balvir Singh No.2046. SI/SHO Jaspal Singh (PW-12) prepared the inquest report (Ex.P32) of the deceased Veer Singh. Statements of Jagpal Singh and Gurdip Singh were recorded in the inquest proceedings under Section 175 Cr.P.C. The dead body was handed over to HC Sajjan Singh with police request (Ex.P33) to get the postmortem examination conducted.

On the next day i.e. 09.05.2006, Amrik Singh (complainant/PW-8) an injured in the case at Civil Hospital, Abohar produced before SI/SHO Jaspal Singh (PW-12), a blood stained shirt which was worn by him at the time of occurrence. It was converted into a parcel (MO/8) and sealed with seal impression 'JS' and was taken in possession vide recovery memo (Ex.P34), which was attested by HC Baltej Singh and thumb marked by Amrik Singh (injured/PW-8). Chhiata Singh (injured/PW-9) produced before SI/SHO Jaspal Singh (PW-12) the blood stained clothes worn by him at the time of occurrence and an arms license of Veer Singh (deceased). The blood stained clothes were converted into a parcel (MO/9) and duly sealed with seal bearing impression 'JS' and taken in possession vide memo (Ex.P24) which was attested by HC Baltej Singh and thumb marked by Chhiata Singh (injured/PW-9). After postmortem examination HC Sajjan Singh produced before SI/SHO Jaspal Singh the belongings of the dead body which were converted into parcel (MO/10) and was duly sealed by him with his seal impression 'JS'. These were taken in possession vide recovery memo (Ex.P35), which was attested by HC Baltej Singh and HC Sajjan Singh.

Then SI/SHO Jaspal Singh (PW-12) along with Jagpal Singh and other police officials inspected the place of occurrence on the same day i.e. 09.05.2006. An empty .405 bore cartridge was taken in possession from the place of occurrence and put in a plastic 'dabbi' (box), which was sealed with seal bearing

impression 'JS' and a parcel was made which was taken in possession vide memo (Ex.P36). It was signed by Jagpal Singh and HC Baltej Singh. The blood stained earth and the simple earth in order to show the injuries was taken in possession from the place where injuries were caused. These were converted into two separate parcels (MO/11 and MO/12) and taken in possession vide memo (Ex.P37), which was duly attested by Jagpal Singh and HC Baltej Singh. Specimen seal impression was prepared and the seal after use was handed over to Jagpal Singh. Rough site plan (Ex.P38) regarding the place of occurrence with correct marginal notes was prepared by SI/SHO Jaspal Singh (PW-12). It was signed by him. The statements of witnesses including Jagpal Singh, Amrik Singh (complainant/PW-8), Chhiata Singh (PW-9), Balbir Singh (PW-11) etc. were recorded. A search was conducted for the accused but they could not be traced on that day. On return to the police station on 09.05.2006, the case property in an intact state was deposited with MHC.

Baljit Singh (appellant No.2), Balkaran Singh (appellant No.4) and Jagjit Singh (appellant No.1) were arrested by SI/SHO Jaspal Singh (PW-12) on 14.05.2006. At the time of arrest, Baljit Singh (appellant No.2) produced a 'dang' (MO/15), which was taken in possession vide memo (Ex.P25). Balkaran Singh alias Jaskaran Singh (appellant No.4) produced before SI/SHO Jaspal Singh (PW-12) a 'kappa' (MO/17) and one 'Universal' Tractor without registration number. A sketch

(Ex.P39) of the 'kappa' was prepared, which was taken along with a tractor in possession of the police vide recovery memo (Ex.P26). Accused Jagjit Singh (appellant No.1) on the same day i.e. 14.05.2006 produced before SI/SHO Jaspal Singh (PW-12) a 'takua' (MO/16). A sketch (Ex.P27) of the same was prepared and was taken in possession of the police vide recovery memo (Ex.P28). These memos were attested by Balbir Singh (PW-11) and HC Baltej Singh. On personal search of the above three accused i.e. Jagjit Singh, Baljit Singh and Balkaran Singh (appellants No.1, 2 and 4) nothing was recovered. Personal search memo (Ex.P40) was prepared which was signed by the accused and the above witnesses. Supplementary statements of Balbir Singh (PW-11) and HC Baltej Singh under Section 161 Cr.P.C. were recorded. On return to the Police station the case property was handed over to the MHC and the accused were put in the police lock up of the police station.

Sukhchain Singh (appellant No.5) was arrested in this case on 16.05.2006. On interrogation by SI/SHO Jaspal Singh (PW-12), he made a disclosure statement (Ex.P42) to the effect that he had kept concealed a .405 bore rifle along with one live cartridge of .405 bore in a polythene piece which was wrapped in the said polythene piece. It was kept underneath the wheat husk in a room meant for storing wheat husk in his house. He offered to get the same recovered. The disclosure statement after it was recorded was signed by Sukhchain Singh (appellant No.5) and attested HC Baltej Singh. The accused Sukhchain Singh

(appellant No.5) while in police custody led the police party to the place that he had disclosed and got recovered a .405 rifle (MO/18) bearing No.422940 along with a .405 bore cartridge (MO/17). The live cartridge (MO/17) was put in a plastic 'dabbi' (box) and the rifle (MO/18) was converted into a parcel. These were taken in police possession vide recovery memo (Ex.P43) which was duly attested by Bhajan Singh and HC Baltej Singh. Specimen seal in this respect was separately prepared and the seal after use was handed over to Harbhajan Singh. On personal search of Sukhchain Singh (appellant No.5) nothing was recovered or taken in possession. His personal search memo (Ex.P45) was prepared which was attested by the aforesaid witnesses. Site plan (Ex.P46) with correct marginal notes was prepared with respect to the place of recovery of rifle and cartridge. The statements of witnesses were recorded under Section 161 Cr.P.C. On the return of SI/SHO Jaspal Singh (PW-12) to the Police Station, the case property was deposited with MHC Gurmit Singh and the accused Sukhchain Singh (appellant No.5) was kept in the police lock up. With respect to the recovery of .405 bore rifle a separate case for the offence under Section 25 of the Arms Act was prepared, which is subject matter of CRA No.2304-SB of 2009.

SI/SHO Jaspal Singh also investigated the case under Section 25 of the Arms Act against Sukhchain Singh (appellant in CRA No.S-2304-SB of 2009) and appeared as PW-4 in the said case. He on 16.5.2006 along with HC Baltej Singh and other

police officials raided the house of Sukhchain Singh in village Gaddan Dob in connection with the arrest of accused under Section 302 IPC when SI/SHO Jaspal Singh and other police officials entered the house of Sukhchain Singh; he on seeing the police party ran away. He (Sukhchain Singh) was apprehended by SI/SHO Jaspal Singh with the assistance of the other police officials. During interrogation, he made a disclosure statement which was reduced into writing. According to the said disclosure statement, he disclosed that he had concealed a .405 bore rifle along with one life cartridge of the same bore wrapped in a polythene paper under the heap of wheat husk which was kept in a room meant for storing wheat husk. He offered to get the same recovered after demarcation. The original disclosure statement was with the file relating to the case under Section 302 etc. IPC. The attested photocopy of the same was Ex.P3 in the case under Section 25 of the Arms Act. Sukhchain Singh in police custody got recovered the .405 bore rifle from the place that he had disclosed a mention of which has been made above with respect to the case under Section 302 etc. IPC. The statements of witnesses under Section 161 CrPC were recorded by SI/SHO Jaspal Singh. On return to the Police Station, the case property was deposited with the MHC in an intact condition.

After completion of investigation, Police report ('challan') in terms of Section 173 Cr.P.C. was prepared in the case under Section 302 IPC by Inspector Bhupinder Singh SHO whose signatures SI/SHO Jaspal Singh (PW-12) identified on the

report. It is stated that there was a land dispute between the complainant and the accused side. Preventive measures under Section 107/151 Cr.P.C. were taken by him and 'calendra' (calendar of events) was prepared and submitted to the Sub-Divisional Magistrate, Abohar. The copies of the 'calendra' (Ex.P47 and Ex.P48) were attested by Inspector Bhupinder Singh and he identified his signatures. These 'calendras' were in his hand and they bear his signatures.

A similar police report ('challan') was prepared in the case under Section 25 of the Arms Act and filed in the Court of learned Judicial Magistrate Ist Class, Abohar.

The Police report in the case under Section 302 etc. IPC was filed in the Court of learned Judicial Magistrate Ist Class, Abohar on 10.8.2006. The learned Magistrate on scrutiny of the file found that offences under Sections 302, 307, 326, 324, 323, 148 and 149 IPC; besides, Section 25 of the Arms Act had been attributed to all the accused. Moreover, out of all the accused, the accused Jagjit Singh (appellant No.1), Baljit Singh (appellant No.2), Sukhchain Singh (appellant No.5) and Balkaran Singh @ Karna (appellant No.4) had been arrested so far. The remaining accused, it was stated had absconded. The offences under Sections 302 and 307 IPC, it was observed, were to be exclusively tried by the Court of learned Sessions Judge; therefore, the case was committed to the said Court for trial vide order date 21.8.2006.

The learned Additional Sessions Judge, Ferozepur on hearing the parties and perusing the documents, besides, from the report under Section 173 CrPC in terms of order dated 12.10.2006 found sufficient grounds to presume that a prima facie case for the offences under Sections 302, 326 and 323/34 IPC was made out against the accused. Accordingly, charge for the offences under Sections 302, 326 and 323/34 IPC was framed against the accused to which they pleaded not guilty and claimed trial.

The learned Additional Sessions Judge, Ferozepur on 3.3.2008 also framed a separate charge against Sukhchain Singh (appellant) for the offence under Section 25 of the Arms Act. It was alleged that Sukhchain Singh (appellant) in the area of village Gaddan Dob on 16.5.2006 was found in possession of .405 bore rifle, which he snatched from Veer Singh (deceased) and it was without any valid permit or license and thereby he (Sukhchain Singh) committed an offence punishable under Section 25 of the Arms Act within the cognizance of the Court. It was directed by the court that Sukhchain Singh be tried for the said offence to which he pleaded not guilty and claimed trial.

In the trial for the offence under Section 302 IPC one PW namely Chhiata Singh was examined on 10.1.2007. The learned Additional Public Prosecutor at the said stage filed an application under Section 319 CrPC for summoning Chhinder Kaur (appellant No.3), Nirmal Singh (appellant No.8), Harbhajan Singh (appellant No.9), Lakhwinder Singh (appellant No.7) and

Jagjit Singh (appellant No.6) son of Koer Singh. The said application was allowed by the learned Additional Sessions Judge, Ferozepur on 19.4.2007 and the aforesaid accused namely Chhinder Kaur (appellant No.3), Nirmal Singh (appellant No.8), Harbhajan Singh (appellant No.9), Lakhwinder Singh (appellant No.7) and Jagjit Singh son of Koer Singh (appellant No.6) were ordered to be summoned to face trial for the offences under Sections 302, 307, 326, 324, 323, 148 and 149 IPC.

Lakhwinder Singh (appellant No.7) was produced in Court in custody by way of bailable warrants on 3.8.2007. He was taken in custody and ordered to be produced in Court on 9.8.2007, which was the date already fixed. Chhinder Kaur (appellant No.3) as per directions of this Court passed in Crl. Misc. No.M-39437 of 2007 on 27.7.2007 appeared before the learned trial Court on 9.8.2007. She was directed to furnish personal bonds in the sum of Rs.40,000/- with one surety of the like amount which were furnished by her. Harbhajan Singh (appellant No.9) surrendered in the Court of learned Additional Sessions Judge, Ferozepur on 16.2.2008. He filed an application to admit him on interim bail. The application was allowed and he was ordered to be released on bail on his furnishing personal bond in the sum of Rs.50,000/- with one surety of the like amount. Nirmal Singh (appellant No.8), it is recorded, in the order dated 3.3.2008 that he was on interim bail.

The learned Additional Sessions Judge in terms of order dated 3.3.2008 found sufficient grounds to presume that a

prima face case under Sections 302, 307, 326, 323, 148 and 149 IPC was made out against the accused. Accordingly, charges for the said offences were framed against the accused to which they pleaded not guilty and claimed trial.

The prosecution in order to establish its case examined as many as 18 witnesses; besides, tendered documents in evidence. The appellants in their defence examined five witnesses. The learned Additional Sessions Judge after considering the evidence and material on record has convicted the appellants in the manner as stated above. Aggrieved against the same, the present appeal has been filed by the appellants assailing their conviction and sentence; besides, Amrik Singh (complainant/PW-8) has filed criminal revision petition seeking enhancement of the sentences awarded to the appellants in CRA No.D-838-DB of 2009 who are respondents No.2 to 10 in the revision petition filed by Amrik Singh (complainant).

Learned Counsel for the appellants, submits that the land on which the incident had occurred was in their possession, although ownership of the same was joint between some of the appellants and the complainant side. Therefore, the appellants being in possession of the land where the incident had occurred, it is the complainant side that had tried to take forcible possession of the same for which the complainant Amrik Singh had called his relatives and other undesirable elements. In the said circumstances and in exercise of their right of private defence, the injuries were caused by Jagjit Singh, Baljit Singh

sons of Sarwan Singh and Balkaran Singh son of Jagjit Singh (appellants No.1, 2 and 4). However, they were falsely implicated. Besides, Jagjit Singh (appellant No.6) son of Koer Singh, Chhinder Kaur (appellant No.3) wife of Baljit Singh, Nirmal Singh and Harbhajan Singh (appellants No.8 and 9) sons of Karnail Singh even though they were in column No.2 of the police report that was filed but were implicated so as to entangle the entire family. It is submitted that it is highly unlikely that Chhinder Kaur (appellant No.3) being a lady would raise a lalkara which has been attributed to her. Besides, it is submitted that the prosecution case is that the Tehsildar was to visit the spot for correcting the khasra girdawari; however, Sandeep Kumar, Reader to the Tehsildar (PW-10) in his cross examination stated that there was no order of the Tehsildar for visiting the place of occurrence on the said date. Therefore, this according to the learned counsel for the appellants shows the falsity of the prosecution case; besides, the motive becomes doubtful. The case being false, it is submitted, is also evident from the fact that Amrik Singh, DSP (DW-4) had recommended the deleting of the offence under Section 397 IPC. It is also alleged that there had been improvements in the eye witness account statements of Amrik Singh, (complainant/PW-8), Chhiata Singh (PW-9) and Balbir Singh (PW-11) with which they were confronted with during cross-examination. It is also submitted that there is contradiction between the ocular version and the medical evidence as the injuries on the person of Veer Singh (deceased)

as mentioned in the post mortem report do not tally with the complainant's version.

Insofar as the conviction under Section 25 of the Arms Act against Sukhchain Singh (appellant in CRA No.S-2304-SB of 2009 and appellant No.5 in CRA No.D-838-DB of 2009) is concerned, it is submitted that HC Baltej Singh (PW-3) had stated that the weapon in question i.e. .405 bore rifle was lying at the spot. However, the prosecution case is that the same was recovered from the disclosure statement of the appellant Sukhchain Singh. Besides, there is no independent witness that was joined from the village even though the alleged recovery from the appellant is from his house.

In response, learned counsel for the State and the complainant have submitted that the prosecution case is correct and it has been duly established on the record the contentions as raised by the learned counsel for the appellants are not made out. It is submitted that the possession of the appellants who were the assailants in respect of the land where the incident had occurred, is not at all proved or established. It is submitted that the appellants being the assailants cannot be said to have acted in their right of private defence. In the revision petition filed by Amrik Singh (complainant), it is submitted that the sentences awarded to respondents No.2 to 10 in the revision petition who are appellants in the criminal appeal is liable to be enhanced.

We have given our thoughtful consideration to the entire matter and with the assistance of the learned counsel

appearing for the parties gone through the record of the case.

The evidence that has been brought on record includes that of Dr. Resham Singh, SMO, Civil Hospital, Abohar (PW-1). He on 8.5.2006 at 7.00 p.m. medico-legally examined Balbir Singh (PW-11) son of Mal Singh resident of village Mallah, Tehsil Gidderbaha District Muktsar. The following injuries were noticed on his person:-

"1. Lacerated wound half cm x half cm x depth not probed present on the upper part of upper outer quadrant of left buttock. Margins were inverted. Wound was freshly bleeding. X-ray was advised."

There was corresponding hole in the underwear and pajama worn by the injured. The underwear and pajama were sealed and handed over to the Police. On receipt of X-ray report of Radiologist, Civil Hospital Abohar the said injury No.1 was declared as simple in nature on the basis of X-ray report.

Dr. Resham Singh (PW-1) also examined Chhiata Singh (PW-9) on the same day and found the following injuries on his person:-

"1. Lacerated wound two and half cm x half cm x muscle deep present on left parietal region of head. Wound was situated obliquely six cm later to midline. Fresh bleeding was present. X-ray was advised.

2. Incised wound 8 cm x 2 cm x bone deep present around the base of index finger of left hand extending to the palm. Wound was freshly bleeding. X-ray was advised.
3. Incised wound 3 cm x half cm x muscle deep present on front of base of thumb of left hand. Wound was freshly bleeding. X-ray was advised.
4. Reddish contusion 14 cm x two and a half cm present on back left half of chest extending to back of left shoulder. It was situated obliquely and tenderness was present and x-ray was advised.
5. Reddish contusion 6 cm x one and a half cm present on left half of chest. Tenderness was present. X-ray was advised.
6. Lacerated wound 2 cm x 1 cm x skin deep present on front of right leg on its lower half. Fresh bleeding was present. X-ray was advised."

Regarding the nature of injuries, injuries No.1 to 6, it is mentioned, were kept under observations and injuries No.1, 4, 5 and 6 it was observed were caused by blunt weapons and injuries No.2 and 3 were also caused by blunt (sic. sharp edged) weapon. On receipt of X-ray report, injuries No.2 and 3 were

declared as grievous in nature while injuries No.1, 4, 5 and 6 were declared simple in nature on the basis of x-ray report.

On the same day, Amrik Singh (complainant/PW-8) son of Sarwan Singh of village Gaddan Dob was examined at 8.15 a.m. (sic. p.m.). The following injuries were found on his person:-

- "1. Lacerated wound 6 cm x half cm x muscle deep present on parietal region of head at midline. Fresh bleeding was present. X-ray was advised.
2. Lacerated wound one and a half CM x half CM on the back of lower part of ring finger of left hand. Wound was freshly bleeding and surrounded by swelling. Tenderness was present. X-ray was advised."

Both the injuries were kept under observation. These were held to be caused with blunt weapon. On receipt of x-ray report of the Radiologist of Civil Hospital, Abohar, these were declared as simple in nature on the basis of x-ray report.

Dr. Resham Singh (PW-1) on police request dated 8.5.2006 declared all the injured Balbir Singh (PW-11), Chhiata Singh (PW-9) and Amrik Singh fit to make their statements in terms of his endorsement Ex.P9. He also sent information regarding the dead body of Veer Singh vide endorsement Ex.P10. He also made an endorsement Ex.P11 to Dr. K.D. Washisht for conducting post mortem examination.

In cross-examination Dr. Resham Singh (PW-1) stated that as per x-ray report there was no bullet or pellet seen in the x-rays. So, in the absence of bullet or pellet injuries, the injuries could be of blunt weapon. Injury No.2 on the person of Amrik Singh, it is stated could not be possible by grazing against a hard surface. The possibility of injuries No.2 and 3 on the person of Chhiata Singh (PW-9) with one blow could not be ruled out. Besides, the possibility of injuries No.2 and 3 being self-suffered being bone deep could not be ruled out. Injuries No.1, 4, 5 and 6 could be possible by different fall.

Dr. Parshotam Ram, MO, Civil Hospital, Abohar (PW-2) radiologically examined Chhiata Singh (PW-9), Amrik Singh (complainant) and Balbir Singh (PW-11) on 9.5.2006. The x-ray of left hand of Chhiata Singh (PW-9); A.P. lateral showed fracture of distal phalanx of index figure. No callous formation was seen. It showed fracture of distal phalanx of left thumb. Nothing abnormal was detected with respect to x-ray chest. P.A., x-ray left leg; A.P. lateral and x-ray left shoulder lateral. The x-ray report of Amrik Singh (complainant) and Balbir Singh (PW-11) was recorded as 'nothing abnormal detected' as no abnormality was detected. In cross-examination it is stated as correct by Dr. Parshotam Ram (PW-2) that he had not mentioned the cut of the bone but he had only mentioned the fracture of the bone in the case of Chhiata Singh (PW-9). He had also not given the extent of fracture/cut in the bone of Chhiata Singh (PW-9).

Dr. K.D. Washisht, MO Civil Hospital, Abohar (PW-3) conducted the post mortem examination on the dead body of Veer Singh son of Kartar Singh resident of Mallah, District Muktsar on 9.5.2006. The dead body was brought by HC Bhajan Singh at 10.00 a.m. The length of the body, it is mentioned, was 5 feet 8 inches. It was moderately built and nourished. The eyes and mouth were closed. The rigor mortis was present in all the four limbs. The following injuries were noticed:-

- "1. There were swelling with bluish contusion four x 2 cm on the right temporal region and swelling extending upto the whole of the back of the neck.
2. Bluish contusion 2 x 2 cm on the left temporal region.
3. Both the eyes and surrounding area swollen and bluish in colour.
4. Fluid blood was coming out of the right ear and nose.
5. There were multiple abrasions on back of chest and abdomen and buttock of left side."

On dissection corresponding to injuries No.1 and 2 there were subcutaneous ecchymosis present. The corresponding underlying bones of the skull were fractured. There were tears and meninges and brain corresponding to the injuries. Free-fluid blood was present in the brain cavity. In the

opinion of Dr. K.D. Washisht (PW-3), the cause of death was hemorrhage, shock and injuries to the brain as already described i.e. injuries No.1 and 2 which were sufficient to cause death of a person in the natural course of duration. The injuries were ante mortem in nature. After conducting the post mortem examination, the dead body, the belongings and copy of police report as also police papers duly signed with pages 9-A and 9-B were prepared. The body was duly stitched. In cross-examination, Dr. Washisht stated as correct that injury No.1 on the person of the deceased could be possible with a big size of some blunt weapon. He could not comment that injury No.1 could be possible with a 'dang' of a normal size. Injury No.2 on the person of the deceased, it is stated, could be possible by fall. It is stated as correct that after receipt of injury No.1, there was every possibility of the deceased falling. Injury No.3, it is stated, could be due to hemorrhage as in the case of injuries No.1 and 2. Injury No.4 could be due to injury No.1. Voluntarily stated it could be also on account of injury No.2. Injury No.5, it is stated, could be due to an individual blow. He had not mentioned the number of injuries in injury No.5. It is stated as correct that in the post mortem report that he had left the column regarding time between injuries and death and between death and post mortem as blank.

Jaspal Singh, Arms Clerk Office of District Magistrate (PW-4) brought the Arms register. As per entry No.19393/Muktsar of Arms License No.19393/Muktsar had been renewed

up to 22.5.2008 under the signatures of Sh. Parminder Pal Singh, Assistant Commissioner General, Muktsar in the name of Veer Singh (deceased). The copy of relevant entry of the register was Ex.P-15. In cross-examination it is stated that village Mallan to which Veer Singh, the license holder belonged fell in Tehsil Gidderbaha. Besides, as per entry, 25 cartridges were issued to Veer Singh (deceased). The license of Veer Singh (deceased), it is stated, was not renewed in the office of District Magistrate, Muktsar and it was already issued by the District Magistrate, Faridkot or the SDM Muktsar.

Harknek Singh, Patwari Circle Mamu Khera, Tehsil Fazilka (PW-5) was examined. He was posted as Patwari of Circle Gaddan Dob on 3.8.2006. He had gone to the spot and prepared a scaled site plan Ex.P16 with correct marginal notes. He had also brought the original summoned record i.e. Khasra Girdawari, register 1999-2000 Ex.P20 of village Gaddan Dob, besides, Jamabandi register for the year 2004-05. Photostat copies of the Jamabandis were Ex.P17 and P18. He had also brought original khasra girdawaris, the photocopies of the same were Ex.P19, Ex.P20, Ex.P21 and Ex.P22. In cross-examination it is stated by Harnek Singh, Patwari (PW-5) that he had seen the Jamabandi register for the year 2004-2005 and the girdawari register till date. As per these registers, possession and ownership of rectangle No.113, killa No.18/3 was of Baljit Singh son of Sarwan Singh as a mortgagee till the date of his deposition i.e. 20.8.2000.

HC Gurmit Singh (PW-6) was posted at Police Station Abohar on 9.5.2006. On the said day, SI/SHO Jaspal Singh deposited with him seven parcels i.e. two simple and two of blood stained earth; besides, two parcels containing clothes and one other parcel bearing the seal impression 'JS' in an intact position. The same were kept intact in the Police Malkhana. Thereafter, SI/SHO Jaspal Singh on 14.5.2006 deposited with him a parcel of .405 bore rifle and one parcel of one cartridge of the same bore duly sealed with the seal bearing impression 'JS'. One 'kappa' was also deposited with him. These articles were kept by HC Gurmeet Singh (PW-6) in the Police Malkhana in an intact position. SI/SHO Jaspal Singh (PW-12) on 16.5.2006 deposited with HC Gurmeet Singh (PW-6) one 'takua' and an Escort Tractor. The 'takua' was kept in the police Malkhana under the custody of HC Gurmit Singh (PW-6) while the tractor was kept in the police yard in the Police Station. HC Gurmeet Singh handed over the above said seven parcels to HC Gurcharan Singh on 9.6.2006 for producing them before the FSL Chandigarh for test. HC Gurmeet Singh deposited the same on the same day in the above said office and the receipt was handed to HC Gurmeet Singh afterwards. In cross-examination it is stated that he did not know whether the cartridge deposited with him on 14.5.2006 was live or empty. It was voluntarily stated that it was a sealed parcel. He did not know what was in the seventh parcel mentioned by him in his examination-in-chief.

HC Gurcharan Singh (PW-7) stated that on 15.5.2006 MHC Gurnam Singh (sic. Gurmeet Singh) handed over to him seven parcels i.e. sample earth, blood-stained earth, empty cartridge parcel etc. bearing the seal impression 'JS' for the test from the office of FSL Chandigarh. On the same day i.e. 15.5.2006 he (HC Gurcharan Singh) deposited the aforesaid parcel and article in the above said office in an intact condition and obtained receipt which he handed over to MHC Gurmeet Singh (PW-6) on his return to the police. So long as the case property remained with him, neither he nor anybody else was allowed to tamper with the same. His statement was recorded by Inspector Bhupinder Singh on 15.7.2006.

Amrik Singh (complainant/PW-8) deposed regarding the occurrence which is on the same basis on which the FIR was registered. In cross-examination it is stated that he got recorded in his statement before the Police that the land in Rajasthan was being cultivated by his brothers i.e. Jagjit Singh and Baljit Singh (appellants No.1 and 2). He was confronted with the statement Ex.P23 where the name of Jagjit Singh only was mentioned. It is further stated that he (PW-8) got recorded in his statement Ex.P23 that fourteen bighas of land in Rajasthan belonging to them was sold by Jagjit Singh (accused/appellant No.1) to the son-in-law of Ratoura, whose name he did not remember and they had filed a civil suit for setting aside the said sale deed. He (PW-8) was confronted with his statement Ex.P23 where it was not so recorded. Further discrepancies in his statement were got

confronted with. It is stated as correct that their dispute with accused Baljit Singh (appellant No.2) was regarding land measuring 8 kanals in rectangle No.113, killa Nos.18/1, 18/2 and 18/3. It is stated as correct that the ownership and cultivation in the revenue papers is with Baljit Singh (appellant No.2) in respect of the said 'killa' numbers. It is voluntarily stated that he (PW-8) cultivates the same by way of their family partitions. The signatures on mark - 'A' were his (PW-8) along with Baljit Singh (appellant No.2) and Jagjit Singh (appellant No.1). He did not know whether as per writing of mark - 'A' dated 6.6.1999, 'killa' No.18 of rectangle No.113 was given to Baljit Singh (appellant No.2) through brotherly partition. He did not know how much land all the five brothers owned at village Gaddan Dob. However, four and a half acres of land came to the share of Joginder Singh (i.e. brother of Jagjit Singh, Baljit Singh - appellants No.1 and 2 as also Amrik Singh - complainant/PW 8) and five acres each of land came to the share of Baljit Singh (appellant No.2), Gurdip Singh, Jagjit Singh (appellant No.1) and the complainant himself. He did not know if Baljit Singh (appellant No.2) had filed a civil suit against him and his brother Joginder Singh regarding eight kanals land comprised in rectangle No.113, 'killas' No.18/1, 18/2 and 18/3 entered in khewat No.143 and stay was granted on 1.8.2005 by the Additional Civil Judge (Sr. Div.) Abohar. He did not know if the said suit was still pending at Abohar but initially he had appeared in the Court at Abohar. It is stated as correct that on two sides of

the land in dispute, land of Baljit Singh (appellant No.2) is situated and on two sides' land of Joginder Singh is situated. It is stated as correct that during the brotherly partition of land at Gaddan Dob, 'killa' No.18 measuring 8 kanals came to the share of Baljit Singh (appellant No.2) in 1999. They were owners of twenty-five bighas of land in Rajasthan. It is stated as correct that a murder case was registered against him (PW-8), Baljit Singh (appellant No.2), Jagjit Singh (appellant No.1), Joginder Singh and their father Sarwan Singh and some other relative. It is stated as correct that in their case, the complainant himself and all others were convicted by the Additional Sessions Judge, Ferozepur. It is stated as correct that one bigha of land at Rajasthan was sold by his father during those days through his mother Bhagwan Kaur by giving her special power of attorney to sell the said land. They were cultivating the land of Gaddan Dob separately for about five-six years prior to the present occurrence. The brotherly partition was done of the land of Gaddan Dob and one year later to that they had separated the land situated at Rajasthan and they were cultivating the land separately. However, they had given on lease the land which fell in his share in Rajasthan. Chhiata Singh (PW-9) and Balbir Singh (PW-11), it is stated, are his brothers-in-law, that is, wife's brothers. It is further stated as correct that Harbhajan Singh is resident of Kothe Amangarh Dakhli Mallan, PS Kot Bhai. Jagpal Singh son of Naib Singh also belongs to village Mallan, District Muktsar. Veer Singh son of Kaur Singh is also resident of Mallan

and is the brother-in-law of Amrik Singh (PW-8). Village Mallan, it is stated is at a distance of 35/40 kilometers from his village i.e. village Gaddan Dob. It is stated as incorrect to suggest that the said village is about 100 kilometers from his village. It is further stated that Amar Kot is at a distance of 35/40 kilometers from his village. Jaspal Singh, it is stated, is also his brother-in-law. Harbhajan Singh was 'siri' with Veer Singh (deceased). Only Veer Singh (deceased) had brought the gun while coming to the fields. He (PW-8) did not know if the Tehsildar had given an order to reach at the spot regarding correction of khasra girdwari. He (PW-8) voluntarily stated that they were informed by their counsel on the same day at about 8.00 am on telephone. After about 10 minutes, his wife rang up the brother-in-law of the complainant on telephone to reach at village Gaddan Dob. He (PW-8) had gone alone to the fields to irrigate the same. He was irrigating the land for sowing 'narma' (cotton) crop. About 2/3 'killas' (acres of land) had been irrigated with water at that time. No land, it is stated was cultivated by Balkaran Singh (appellant No.4) when the present occurrence had taken place. It is stated that no one from the nearby 'dhanis' (out houses in the farms) reached after hearing their alarm. It is stated as correct that there is a 'katcha' (un-metalled) watercourse in between the disputed land and the land of Balkaran Singh (appellant No.4). Their land was also being irrigated for the purpose of sowing 'narma' (cotton) crop during those days. It is stated that nothing was taken in possession from his possession at the spot by the

police. No cot was there near the place of occurrence and nor were any articles left at the place of occurrence, when they moved to the hospital. The occurrence took place within 2/3 minutes. When Balkaran Singh (appellant No.4) reached with the tractor at the spot, the 'Tata Sumo' vehicle also came immediately and within 2/3 minutes the occurrence took place. The 'jhugi' (hutment) was situated in the field of Joginder Singh just by the side of the 'khal' (water-course) in killa No.17. They had started from the spot at about 5.45 pm for Civil Hospital. They never talked about this occurrence with anybody at the spot or during the way to the hospital. They never informed the police station as they passed through the by-pass. However, if one goes to the Civil Hospital, Abohar on the straightway then police station Sadar Abohar comes on the way to the Civil Hospital. Veer Singh etc. it is stated might have taken tea from their house. It is stated as correct that Kala Singh is son of Chhiata Singh (PW-9). It is stated as correct that Kala Singh is married to the daughter of ASI Narinder Pal Singh. He (PW-8) did not know if above said ASI Narinder Pal Singh was posted at Police Station Sadar Abohar during those days. ASI Narinder Pal Singh, it is stated might be In-charge of the area in which the occurrence took place. Baljit Singh (appellant No.2) it is stated might have filed applications against the complainant side as well as against Narinder Pal Singh and Jaspal Singh SI regarding the disturbance of possession created by him (PW-8) or his other brothers regarding 'killa' No.18. It is stated as correct that on

these applications they were called to the Police Station and were proceeded against under Sections 107/151 Cr.P.C. It is stated as correct that the ADC, SSP and DSP, Abohar directed them on the application of Baljit Singh (appellant No.2) that whosoever was cultivating the land should cultivate it and wait for the order of the Civil Court, besides, not to create any disturbance. He (PW-8) did not know if Gurdip Singh was appearing in a complaint case filed by Baljit Singh (appellant No.2) against him (PW-8), Gurdip Singh and others on 16.08.2005 for the offences under Sections 323/379/380 etc. IPC. He (PW-8) did not know if Gurdip Singh was appearing in that complaint case; however, he (PW-8) was not appearing in that complaint case against them. However, no complaint was filed by them regarding the theft in the said land. Contempt of Court it is stated might be pending against him and others but he had filed case only for correction of 'khasra girdwari'. It is stated as correct that the first case filed by them for correction of khasra girdwari was dismissed by the Tehsildar. It is voluntarily stated that they had restarted the said case for correction of khasra girdwari and it was pending for 20.10.2008 before the Naib Tehsildar, Abohar. The accused, it is stated came from the eastern side. Veer Singh (deceased) always kept a gun with him but he never picked up the gun at that time. He (PW-8) did not know whether the gun was loaded or not. No one loaded the said gun in their presence. No shot was fired by Veer Singh from that gun on that day. He did not know the number of cartridges kept by Veer Singh with him. It is

stated as correct that Veer Singh and Chhiata Singh (PW-9) were brothers-in-law (i.e. their wives were sisters). It is stated as correct that there is 'dhani' (out house in the farm) of Gurbej Singh, Bhej Singh and Mandar Singh near their land which was at a distance of 14/15 killas from the spot. He (PW-8) was there in the fields since 3.15 am. He had turned the water at that very time towards his fields. His turn of water finished at 4.30 am. Then he came back to his house and again went to his field at 8.30 am. There he (PW-8) was removing the wheat chaff from the fields. He (PW-8) was all alone there in the fields. Mud was prepared around the wheat chaff and that was put on the heap of wheat chaff with the help of some plate. The said mud was prepared on the same day. Nobody out of Inspector, DSP, SP or SSP came to him for inquiry in the present case. It is stated as wrong that Chhinder Kaur (appellant No.3), Bhajan Singh (appellant No.9), Nirmal Singh (appellant No.8) and Lakhwinder Singh (appellant No.7) were declared innocent by the higher police officers. It is stated as correct that the above said persons were summoned by the Court on an application made by them. Previously they were neither 'challaned' (sent up for trial) nor were they appearing in Court. They were summoned by the Court on their applications. He (PW-8) was cultivating the disputed land then. It is stated as incorrect to suggest that a false case was planted against the accused. It is further stated as incorrect that he assembled (sic. gathered) his relatives armed with deadly weapons at the spot to take forcible

possession of the disputed killas of land. It is stated as incorrect to suggest that false case has been planted against the accused. It is also stated as wrong to suggest that he had deposed falsely.

Chhiata Singh (PW-9) deposed on the same lines as that of Amrik Singh, complainant (PW-8). He was cross examined at considerable length. The discrepancies in his deposition in Court and in his statement (Ex.D1) were got confronted with from him.

Sandeep Kumar (PW-10) Reader to the Tehsildar, Abohar brought the summoned record i.e. Case No.197 of AC Ist Grade dated 10.11.2005/17.08.2005 titled as 'Amrik Singh v. Tara Singh and others' for correction of khasra girdwari. The said application/case had been consigned to the record room as *sine die* vide order dated 10.08.2006. In cross examination it is stated as correct there were 21 respondents in the application filed by Amrik Singh (complainant/PW-8) for correction of khasra girdwari. Gurdeep Singh and Joginder Singh (i.e. brothers of the complainant Amrik Singh and appellants No.1 and 2 Jagjit Singh and Baljit Singh) were impleaded as respondents. It is stated as correct that as per the file, there was no mention any order that on what date; the Tehsildar was to visit the spot for spot inspection for correction of khasra girdwari. It is stated as correct that on 10.08.2006 final orders were passed by AC Ist Grade, Abohar and nothing was to be done because both the parties did not appear and the petition was consigned *sine die*. It is stated as correct that there was no order for correction of

khasra girdwari and the girdwari already existing remained intact.

Balbir Singh (PW-11) stated that on 08.05.2006, he along with Chhiata Singh (PW-9), Amrik Singh (PW-8), Jagpal Singh, Harbhajan Singh and Veer Singh were sitting near the cottage in the land of Joginder Singh, Patwari. They were waiting for the Tehsildar as he was to inspect the spot in connection with a dispute of one acre land of Amrik Singh (PW-8) regarding possession and ownership. Amrik Singh (PW-8) had taken the land on lease of his brother Joginder Singh, Patwari. It was at about 5.30 pm when Balkaran Singh (appellant No.2) reached there with 'Universal' tractor and started to plough the 'narma' (cotton) crop sown by Amrik Singh (PW-8). The tractor was followed by 'Tata Sumo' vehicle which stopped at a distance of 2½ acres from the disputed land. Out of the said jeep, Jagjit Singh (appellant No.1) armed with 'takua', Sukhchain Singh (appellant No.5) armed with a 'kirpan', Baljit Singh (appellant No.2) armed with a 'dang', Nirmal Singh (appellant No.8) armed with a 'dang', Harbhajan Singh (appellant No.9) armed with a 'kappa', Chhinder Kaur (appellant No.3) empty handed, Lakhwinder Singh (appellant No.7) armed with a pistol, Jagjit Singh (appellant No.6) of village Naruna empty handed came there. All of them were present in Court on the date of deposition of Balbir Singh (PW-11). They alighted from the jeep and came towards them by raising 'lalkaras'. Balkaran Singh (appellant No.4) also joined them. They were just standing

there. Veer Singh (deceased) was trying to stand up with the help of his gun. Then Baljit Singh (appellant No.2) gave a 'dang' blow on the person of Veer Singh and he fell on the ground with his face towards the ground. Then Baljit Singh (appellant No.2) gave another 'dang' blow which hit on the temple of Veer Singh. Sukhchain Singh (appellant No.5) snatched the gun from Veer Singh. Then Jagjit Singh (appellant No.1) gave a 'takua' blow from its reverse side which hit Veer Singh (deceased) on his left shoulder. Then Balkaran Singh (appellant No.4) gave three-four 'kappa' blows from its reverse side which hit on the waist of Veer Singh (deceased). Then Chhinder Kaur (appellant No.3) raised 'lalkara' along with Lakhwinder Singh (appellant No.7) and stated that their girdwari be got corrected. On this, Lakhwinder Singh (appellant No.7) fired a shot to kill them which hit on the left buttock of Balbir Singh (PW-11). He (PW-11) and Jagpal Singh as also Harbhajan Singh raised an alarm of 'na maro na maro'. Then all the aforesaid accused caused multiple injuries on the person of Amrik Singh (PW-8) and Chhiata Singh (PW-9) with their respective weapons. On an alarm being raised by complainant side, Jagpal Singh and Harbhajan Singh; the accused fled away from the place of occurrence with their respective weapons on their vehicles. While they were leaving the spot, Chhinder Kaur (appellant No.3) stated that Veer Singh (deceased) the big helper, it appeared had died. Sukhchain Singh (appellant No.5) fired two shots from the gun with the intention to kill them and also held out threats of dire

consequences if the occurrence was reported to the police. Jagpal Singh and Harbhajan Singh, Sarpanch took them by car to the Civil Hospital, Abohar. Veer Singh succumbed to his injuries on the way. They were medically examined and treated at Civil Hospital, Abohar. Amrik Singh (PW-8) and Chhiata Singh (PW-9) were also medically examined. His (PW-11) statement was recorded by the Police. During the course of investigation a 'dang' was recovered by the police from Baljit Singh (appellant No.2) and the same was taken in possession vide memo (Ex.P25). In his (PW-11) presence the tractor as also a 'kappa' were recovered from Balkaran Singh (appellant No.4) which was also taken in possession by the police vide memo (Ex.P26) which bears his signatures. In his presence, a 'takua' was also got recovered by the police from Jagjit Singh (appellant No.1). The sketch of the same was prepared and was taken in police possession vide recovery memo (Ex.P27). His statement was recorded by the police.

In cross examination, it is stated by Balbir Singh (PW-11) that his sister is married to Amrik Singh, (complainant/ PW-8) about 20 years earlier to the occurrence. At the time of marriage, the entire family was joint and they had been visiting each other on social ceremonies since then. They separated from each other 10/12 years earlier to the occurrence. It is stated as correct that this one 'killa' of land stands in the name of Baljit Singh (appellant No.2). It is voluntarily stated that though this land stands in the name of Baljit Singh (appellant No.2) but

it is being cultivated by Amrik Singh (PW-8). He did not remember whether he had got this recorded in his statement (Ex.D2) that the land in dispute was being cultivated by Amrik Singh (PW-8). He was confronted with his statement (Ex.D2) where this fact was not recorded. Other discrepancies that were made in his statement (Ex.D2) were got confronted with from him.

SI/SHO Jaspal Singh (PW-12) deposed regarding the investigation that he had conducted in the case. He had recorded the statement (Ex.P23) of Amrik Singh (PW-8) which was read over and explained to him. Amrik Singh (PW-8) after admitting it to be correct put his thumb impression. On this SI/SHO Jaspal Singh made his endorsement (Ex.P30). FIR (Ex.P31) was recorded on the basis of the said statement (Ex.P23) by ASI Narinder Singh whose signatures he identified on the carbon copy of the FIR. He (PW-12) also conducted inquest proceedings (Ex.P32) of deceased Veer Singh. Statements of Jagpal Singh and Gurdip Singh under Section 175 CrPC were recorded by him. The dead body was handed over to HC Sajjan Singh with police request (Ex.P33) to conduct its post-mortem examination. Amrik Singh (injured/PW-8) produced before him, the blood-stained shirt which was worn by him at the time of occurrence. The same was converted into parcel (MO/8) and was taken in possession vide recovery memo Ex.P34. Chhiata Singh (injured/PW-9) produced the blood-stained clothes worn by him at the time of occurrence and one arms license of Veer Singh

(deceased). The blood-stained clothes were converted into parcel (MO/9) which was duly sealed with his seal bearing impression 'JS' and was taken in possession by the police vide memo Ex.P24 which was attested by HC Baltej Singh and thumb marked by Chhiata Singh (PW-9). After post-mortem examination, the belongings of Veer Singh from his dead body were produced by HC Sajjan Singh which were converted into a parcel (MO/10) and sealed with seal impression 'JS'; besides, taken in possession vide memo Ex.P35. Other investigations were conducted and the accused arrested, besides, the police report was prepared by Inspector Bhupinder Singh, the then SHO, PS Sadar Abohar and filed.

In cross-examination, it is stated, that he correctly recorded the statements Ex.D1 of Chhiata Singh (PW-9) and Ex.D2 of Balbir Singh (PW-11) without any addition or omission. It is stated as correct that as per report under Section 173 CrPC prepared by Inspector Bhupinder Singh, Chhinder Kaur (appellant No.3), Nirmal Singh (appellant No.8), Harbhajan Singh (appellant No.9) and Lakhwinder Singh (appellant No.7) were placed in column No.2 of the said report under Section 173 CrPC. It is stated that he did not try to join Harnek Singh, Patwari Halqa, Gaddan Dob during investigation of the case by him. It is stated as correct that on recording the statement of Amrik Singh, complainant (PW-8) he came to know that the accused and complainant were having a dispute regarding rectangle No.113, 'killa' No.18 of village Gaddan Dob. During investigation, he did

not try to verify from Patwari Halqa regarding the possession of 'killa' No.18 (18/1, 18/2 and 18/3) that is complete 'killa' No.18 of rectangle No.113 as to who was in possession of it as per revenue record. However, he verified this fact at the spot during his investigation and found that 'killa' No.18 was in possession of Amrik Singh, complainant (PW-8). It is stated as incorrect that he had made this statement on the day of his deposition in Court to help the complainant. It is stated as correct that he recorded the statement of Balbir Singh (PW-11) but he did not know that the said 'killa' was in possession of Baljit Singh (appellant No.2). During his investigation, he did not verify by going to the office of the Tehsildar as to whether he was to come at the spot for the correction of khasra, girdawari or not. He also did not verify the 'zimni' order (interim order) of the file of the case pending before the Tehsildar for correction of khasra girdawari as to whether there was any order to visit the spot on that day or not. In his investigation it had come that the outsiders i.e. Veer Singh, Bhajan Singh, Chhiata Singh, Jagpal Singh, Balbir Singh and Lakhwinder Singh were called by Jagjit Singh and Amrik Singh. He did not verify who had called them on telephone. Veer Singh (deceased) had a licensed weapon. As per his investigation, there was no weapon with Harbhajan Singh, Balbir Singh (PW-11) etc. The villages of all these persons who had come from outside were at distances of 30/40 kms from the spot. He did not verify that after coming from their village to which house they first visited. From his verification, it was brought out that

these outside persons came at village Gaddan Dob at noon time on the date of occurrence. It is stated as correct that ASI Narinder Pal Singh was posted as Investigating Officer at Police Station Sadar Abohar. It is stated as incorrect to suggest that the area of village Gaddan Dob was in his 'zail' (under him). He did not know if the son of Chhiata Singh (PW-9) was married to the daughter of ASI Narinder Pal Singh. The house of the complainant, it is stated, was at a distance of 50 yards from the house of Jagjit Singh (appellant No.1). When Inspector Bhupinder Singh conducted investigation at the spot on 24.6.2006, he (PW-12) did not accompany him because he was transferred. He (PW-12) could not say that Inspector Bhupinder Singh during investigation had observed that Veer Singh etc. while armed with a fire arm came to the spot to show their force and take possession of the disputed land. It is stated as correct that the offence under Section 397 IPC was incorporated by him for the theft of the gun of Veer Singh. It is stated as correct that later on it was deleted by Inspector Bhupinder Singh with intention to help the accused. When an enquiry was conducted by the DSP and other police officers, he did not accompany them as he had already been transferred from that police station. It is stated as correct that the accused had been making applications against him and Narinder Pal Singh DSP that they were trying to deliver possession to Amrik Singh complainant forcibly. He (PW-12) voluntarily stated that he did not know the date i.e. the exact dates of those applications. He did not know if Jagjit Singh and

Baljit Singh (appellants No.1 and 2) filed such applications to the DGP Punjab on 2.8.2005. It is stated as correct that another application dated 30.8.2005 was given by Baljit Singh (appellant No.2) to DSP which was registered at serial No.636. R/DSP against him, Amrik Singh (PW-8), Chhiata Singh (PW-9), Veer Singh regarding forcibly trying to irrigate land in killa Nos.18/1, 18/2 and 18/3 of rectangle No.113. It is stated as correct that number of applications were given against him, Narinder Pal Singh ASI, besides, Amrik Singh, Chhiata Singh (PW-9) and Veer Singh etc. before the occurrence by the accused party. It is voluntarily stated that inquiry into allegations levelled against him and ASI Narinder Pal Singh was conducted by various officers but each time the allegations levelled against them were found to be false. It is stated as correct that the accused filed such applications to ADC, SDM and DC which were forwarded to the higher officers of the Police and then they came to him. It is voluntarily stated that after these applications, he proceeded under Sections 107/151 CrPC against both the parties. It is stated as incorrect to suggest that due to bias by such applications against him by the accused to higher police authorities, he conducted a biased investigation against the accused. It is further stated as incorrect that he had not brought the real facts at the spot on the file of the complainant party on account of the applications given by the accused party. It is further stated as incorrect that false recoveries had been planted against the accused. It is further stated as incorrect that at his

instigations the complainant had called outsiders to take possessions of the disputed killas from Baljit Singh etc. on that day.

ASI Sukhmander Singh (PW-13) was posted as ASI Police Station Sadar Abohar during the month of August 2006. The investigations in the present case were partly conducted by him. He recorded statements of Jaspal Singh, Arms Clerk, Mohan Lal Doda, Registration Clerk of the Office of SDM Abohar, Harnek Singh, Revenue Patwari of Halqa Gaddan Dob, Sandeep Kumar, Reader to Tehsildar, Abohar, Avtar Singh, Alhmad in the Court of Sub Divisional Judicial Magistrate, Abohar under Section 161 Cr.P.C. Besides, he recorded the supplementary statement of Amrik Singh, complainant. During the course of investigation on 5.8.2006 he made a police request (Ex.P47) before the Senior Medical Hospital, Civil Hospital, Abohar regarding the kind of weapon used which caused the injuries on the person of Balbir Singh (PW-11). As per opinion of the doctor (Ex.P47/A), the weapon used for the injury on the person of Balbir Singh (PW-11) was mentioned as pointed blunt weapon.

In cross-examination it is stated that he never accompanied the Halqa Patwari nor verified from him by visiting the spot as to who was in possession of land in rectangle No.113, Killa Nos.18/1, 18/2 and 18/3. He himself also did not verify this fact after visiting the spot. He had also not made verification about the possession of the said killa of the land after calling for

the Jamabandi register and girdawari register from the Patwari of the disputed land.

Mohan Lal Doda, Ahlmad to the Court of SDM, Abohar (PW-14) stated that he was posted in the copying agency/copyist in the Court of Sub-Divisional Magistrate, Abohar on 30.8.1996. He brought the summoned register containing entry No.5248 dated 30.8.1996 (Ex.P48) vide which tractor No.PBX 2863 had been shown to be transferred in favour of Jagjit Singh (appellant No.1). In cross-examination it is stated that the entry was not in his hand. He was not posted on the relevant seat during those days. It is stated as incorrect to suggest that this was a manipulated entry.

Avtar Singh, Ahlmad to the Court of Additional Civil Judge (Sr. Division), Abohar (PW-15) brought the summoned record i.e. civil suit file No.168/1 of 1.8.2005 for permanent injunction titled Baljit Singh v. Amrik Singh. The suit was then pending for 27.4.2009. He had seen the order dated 17.7.2006 passed by Sh. Ashok Pal Batra, PCS Additional Civil Judge (Sr. Division), Abohar on the application under Order 39 Rule 1 and 2 CrPC (sic. CPC). He (PW-15) identified the signatures of the officer on the same. The Photostat copy of the said order, the original of which he had got, was Ex.P49. In cross-examination it is stated as incorrect that vide order Ex.P49 the parties were directed to maintain status quo regarding the disputed land.

Constable Balvir Singh, PS Sadar Abohar (PW-16) tendered in evidence his affidavit (Ex.P50) which was in his hand

writing and was signed by him. The same was stated as correct. The affidavit (Ex.P50) is to the effect that on 8.5.2006, ASI Narinder Singh, Police Station Sadar Abohar handed over to him the special report for sending the same to the 'Ilaqa' (Area) Magistrate and the higher officers. On the same day, he first sent the special report to the 'Ilaqa' (Area) Magistrate and then to the higher officers. So long as the reports remained with him, he did not tamper with the same nor did he let anybody else tamper with it.

HC Harbans Lal, PS Sadar Abohar (PW-17) brought the original record of FIR No.197 dated 26.09.1989 under Sections 302, 201 etc. IPC registered at Police Station Abohar. The Photostat attested copy (Ex.P51) was tendered in evidence. In cross-examination it is stated as correct that as per the FIR book that he had brought in Court on that day regarding the FIR No.197 dated 26.9.1989, Amrik Singh (complainant/PW8), was one of the accused in the said case along with Jagjit Singh (appellant No.1).

Head Constable Punjab Singh, Reader DSP Jalalabad (PW-18) brought the FIR register containing FIR No.213 dated 15.7.2005 under Section 324 etc IPC registered with Police Station City Abohar. The Photostat attested copy Ex.P52 of the same was tendered in evidence. In cross-examination he stated as incorrect that the said case in the said FIR was pending in the Court and had yet not been decided.

Gurdeep Singh son of Sarwan Singh (i.e. brother of Jagjit Singh and Baljit Singh, appellants No.1 and 2 as also the brother of Amrik Singh, complainant/PW-8) was given up by the learned Additional Public Prosecutor as won over by the accused; besides, ASI Narinder Pal Singh and Inspector Bhupinder Singh were given up as unnecessary. Thereafter, HC Sajjan Singh was given up as unnecessary. Besides, HC Sajjan Singh was given up as unnecessary and PWs Bhajan Singh alias Harbhajan Singh and Jagpal Singh were given up as having been won over by the accused on the application of the complainant Amrik Singh. HC Baltej Singh was also given up by unnecessary and the prosecution evidence was closed.

The substance of the evidence appearing against the accused was put to them. Jagjit Singh (appellant No.1) in his defence stated that he was innocent. 'Killa' No.18, it is stated, was given to his brother Baljit Singh (appellant No.2) as per the brotherly partition dated 6.6.1999 and since then he was cultivating that land. Amrik Singh (complainant) etc. tried to take forcible possession of the said 'killa' with the help of police as ASI Narinder Pal Singh who was posted at Police Station Sadar Abohar was the father-in-law of the son of Chhiata Singh (PW-9) and several applications were given to Deputy Commissioner, Additional Deputy commissioner and higher police officers regarding this fact. Baljit Singh (appellant No.2) also filed a civil suit regarding this 'killa' number in which stay was granted by the Court on 1.8.2005. On the day of occurrence, it is stated

that Amrik Singh (complainant) called his relatives and others 'gunda' persons from his in-law to take possession of said 'killa'. All of them were armed with deadly weapons and injuries were caused to save their land in defence of property. False case had been registered against him and his relatives.

Baljit Singh (appellant No.2) also deposed on the same lines as his brother Jagjit Singh (appellant No.1). He stated that he was innocent and that 'killa' No.18 fell in his share during brotherly partition dated 6.6.1999. He was in possession of that 'killa' since then. It is stated that 'killa' No.18/3 i.e. 2 kanals was firstly mortgaged with him from Karnail Singh and later on this was also purchased by him (Baljit Singh). Amrik Singh (complainant) etc. wanted to take forcible possession of this 'killa' with the help of SI Jaspal Singh and ASI Narinder Pal Singh as the daughter of ASI Narinder Pal Singh was married to the son of Chhiata Singh (PW-9). They filed several applications in this regard to the executive authorities and higher police officers regarding the apprehension and theft of crop by Amrik Singh (complainant) etc. but no action was taken by the police as the relation of Amrik Singh (complainant) namely Narinder Pal Singh was posted there. On the day of occurrence, it is stated that he himself, his brother Jagjit Singh (appellant No.1) and his nephew Balkaran Singh (appellant No.4) were working in the fields and Amrik Singh (complainant) etc. accompanied by Chhiata Singh (PW-9), Balbir Singh, Veer Singh and others armed with deadly weapons came there and tried to take forcible

possession of the land. To save their land and defence of property, they caused injuries to Veer Singh and others. False case had been planted on them.

Balkaran Singh (appellant No.4) took the defence that he was innocent. It is stated by him that on the day of occurrence, he himself, his father Jagjit Singh (appellant No.1) and uncle Baljit Singh (appellant No.2) were working in the field and Amrik Singh (complainant/PW-8) accompanied by Chhiata Singh (PW-9), Baljit Singh, Veer Singh and others armed with deadly weapons came there and tried to take forcible possession of the land. To save their land and defence of property they caused injuries to Veer Singh and others. False case had been planted against them on the day of occurrence, Amrik Singh (complainant/PW-8) called his relatives and other gunda persons from his in-law to take forcible possession of the said killa. All those (assaults) were caused to save their land. False case had been registered against him (Balkaran Singh) and his other relatives.

Sukhchain Singh (appellant No.5) stated that he was innocent and had been falsely involved in this case being son of Jagjit Singh (appellant No.1).

Jagjit Singh (appellant No.6) son of Koer Singh in his defence stated that he was innocent and had been falsely involved in this case being relative of Jagjit Singh (appellant No.1) son of Sarwan Singh.

Chhinder Kaur (appellant No.3) wife of Baljit Singh (appellant No.2) in her defence stated that she was innocent and had been falsely involved in this case being relative of Jagjit Singh (appellant No.1). Even during enquiry, she was not 'challaned' (not sent up for trial) by the police.

Lakhwinder Singh (appellant No.7) in his defence stated that he was innocent and had been falsely involved in this case being relative of Jagjit Singh (appellant No.1). Even during enquiry, he was not 'challaned' (not sent up for trial) by the police.

Nirmal Singh (appellant No.8) in his defence stated that he was innocent and had been falsely involved in this case being relative of Jagjit Singh (appellant No.1). Even during enquiry, he had been declared innocent and was not 'challaned' (not sent up for trial) by the police in the report under Section 173 CrPC.

Harbhajan Singh (appellant No.9) in his defence stated that he was innocent and had been falsely involved in this case being relative of Jagjit Singh (appellant No.1). Even during enquiry, he had been declared innocent and was not 'challaned' (not sent up for trial) by the police in the report under Section 173 CrPC.

In defence, Balwinder Kumar, Alhmad to the Court of Sh. Bikramjit Singh, Judicial Magistrate Ist Class, Abohar (DW-1) was examined. He brought the summoned file in case Baljit Singh v. Amrik Singh under Sections 323, 341 etc. of IPC

pending in the Court of Sh. Bikramjit Singh, Judicial Magistrate Ist Class, Abohar for 1.8.2009. The said complaint (Ex.D3) was filed on 16.8.2005 by Baljit Singh. In cross-examination, he stated that the accused had not yet been summoned in the said complaint.

Sukhdayal, Naib Reader office of DSP, Abohar (DW-2) was examined. He brought the application filed by Baljit Singh (appellant No.2) son of Sarwan Singh resident of Gaddab Dob to DSP against Amrik Singh (complainant/PW-8), Chhiata Singh (PW-9) and Veer Singh. The application was received in the office of DSP vide serial No.636-DSP dated 31.8.2005. He brought the register in which the entry (Ex.D4) had been duly made. The enquiry report was (Ex.D5) the original of which he had brought in Court. This was objected to other ground of mode of proof. In cross-examination it is stated that there was no page marking of the register that he had brought in Court. There was no certificate given by the competent authority on the register. It was correct that the application in question was sent to the SHO PS Sadar Abohar for necessary action.

Janak Raj, HRC Office of the Deputy Commissioner, Ferozepure (DW-3) brought the summon sale deed dated 4.8.1980 (Ex.D6) executed by Karnail Singh, son of Nand Singh son of Gurdit Singh. This had been brought by him from the HRC Branch office of the Deputy Commissioner, Ferozepur. He was not cross-examined although opportunity was given.

DSP Amrik Singh (DW-4) was examined. He got (sic. conducted) the enquiry of this case on 20.6.2006 and had gone through the file. He further directed SHO Bhupinder Singh to conduct investigation of this case. Inspector Bhupinder Singh after investigation and after recording the statements of several persons including Darshan Singh, Member Panchayat, Gurcharan Singh son of Ram Singh, Jit Ram son of Attu Ram and others referred for determining the innocence of Chhinder Kaur (appellant No.3) and for deleting the offence under Section 397 IPC. He verified the investigation conducted by Inspector Bhupinder Singh on 14.7.2006 and finally declared Chhinder Kaur (appellant No.3) as innocent and also ordered for deleting the offence under Section 397 IPC. In cross-examination it is stated that while conducting enquiry he also joined the complainant party including Amrik Singh, complainant (PW-8), Gurdip Singh, Joginder Singh and also joined other persons from village Gaddan Dob while coming to the conclusion. Inspector Bhupinder Singh did not record the statements of the person in his presence but he had individually verified their statements at this own level. It is stated as incorrect to suggest that he conducted a one sided enquiry.

Mohinder Singh No.2564/FZR PC Branch, Ferozepur (DW-5) was examined. He brought the summoned file enquiry in the present case and also brought a Photostat copy of the application filed by Nirmal Singh (appellant No.8) and Harbhajan Singh (appellant No.9) to DIG, Ferozepur. Mark 'B' was the

Photostat copy of the said application and the original of the same was sent back to DIG. On the said application, an enquiry was conducted by the then DSP (D) Paramjit Singh Parmar and Photostat copy of the said enquiry report was Ex.D7, the original of which he had brought in Court on that day. He identified the signatures of Sh. Paramjit Singh Parmar the then DSP (D) on the enquiry report as he had been working under him. In cross-examination he stated that he had not brought any record to prove that the original of mark 'B' was sent back to DIG. The enquiry report Ex.D7 was not conducted in his presence nor did he join the said enquiry.

The case of the appellants, as has been noticed above is that they allege that they have been falsely implicated in the case and in any case, they acted in their right of private defence inasmuch as they were in possession of the land in which the incident had occurred. The act of inflicting injuries during the occurrence has been attributed to Jagjit Singh (appellant No.1) son of Sarwan Singh, Baljit Singh (appellant No.2) and Balkaran Singh (appellant No.4) on the person of Veer Singh (deceased). Baljit Singh (appellant No.2) is also attributed a 'dang' blow along with Nirmal Singh (appellant No.8) turn by turn on the left side of the back and left side of the chest of Chhiata Singh (PW-9). Besides, Jagjit Singh (appellant No.1) is attributed a 'takua' blow on the back of the lower left leg of Chhiata Singh (PW-9). Jagjit Singh and Baljit Singh (appellants No.1 and 2) are married two sisters at village Mallan, Police Station Kot Bhai.

The prosecution case as stated by Amrik Singh, (complainant/PW-8) is that there were two factions in their family amongst the five brothers. One of them was that of Jagjit Singh and Baljit Singh (appellants No.1 and 2), whose wives are sisters. The other is that of Amrik Singh (complainant/PW-8), his brothers namely Joginder Singh, Patwari and Gurdip Singh. Amrik Singh (complainant/PW-8) in his deposition in court reiterated his statement (Ex.P23) on the basis of which FIR (Ex.P31) in the case was registered. It is stated that four years earlier to the incident that had occurred on 8.5.2006 all the brothers had partitioned their land amongst themselves. All the five brothers except for Joginder Singh, Patwari got five acres of land while Joginder Singh, Patwari got 4½ acres of land. All the brothers also owned 25 bighas of land at Chak 74-RB, Tehsil Rai Singh Nagar in the State of Rajasthan. The said land was cultivated by Jagjit Singh and Baljit Singh (appellants No.1 and 2). Jagjit Singh (appellant No.1) had sold 14 bighas of land in Rajasthan to a family member of his son-in-law whose name he did not remember. They had filed a civil suit to get the sale deed set aside. In this way, their family got divided into two groups with one group comprising of Jagjit Singh and Baljit Singh (appellants No.1 and 2), whose wives were sisters, and the other of Amrik Singh himself and his brothers Joginder Singh, Patwari and Gurdip Singh. In respect of the land allotted to him (Amrik Singh) in the family/brotherly partition at village Gaddan Dob, one acre of land was that of Baljit Singh (appellant No.2) but was

under his (i.e. Amrik Singh's - complainant/PW-8) cultivation. It is with respect to this one acre of land that the dispute had occurred between the brothers on 8.5.2006.

About 8-9 months earlier to the occurrence, Jagjit Singh, Baljit Singh, Balkaran Singh, Sukhchain Singh and Lakhwinder Singh alias Lakha (appellants No.1, 2, 4, 5 and 7 respectively) inflicted injuries to Joginder Singh, Patwari and his son Mann Singh. In respect of the said occurrence, a case was registered against the said accused at Police Station City Abohar. Amrik Singh (complainant/PW-8) had filed an application for correction of khasra girdawari regarding the aforesaid one acre of land. The Tehsildar Abohar was to come at the spot on 8.5.2006 for spot inspection. Amrik Singh (complainant/PW-8) also cultivated the land of his brother Joginder Singh, Patwari on lease basis. He had constructed a 'chappar' (hutment) in the said land. Amrik Singh (complainant/PW-8) along with his brothers-in-law Chhiata Singh (PW-9) and Balbir Singh (PW-11); besides, Veer Singh (deceased) son of Kartar Singh; as also, Jagpal Singh and Harbhajan Singh were present on the eastern side of the 'chappar' (hutment) on 8.5.2006 and were sitting there. Veer Singh (deceased) had his licensed rifle with him and the others were empty handed. At about 5.30 p.m., Balkaran Singh (appellant No.4) was seen coming from the village side driving a 'Universal' Tractor which was followed by a 'Tata Sumo' Jeep. Balkaran Singh (appellant No.4) on reaching the place where the incident occurred started to plough the cotton crop

which had been grown by Amrik Singh (complainant/PW-8). Amrik Singh (complainant/PW-8) signalled Balkaran Singh (appellant No.4) so as to stop him to plough the land. The 'Tata Sumo' stopped at a distance of about two/two and a half acres from the hutment. They thought that the Tehsildar may be in the 'Tata Sumo'; however, Jagjit Singh (appellant No.1) son of Sarwan Singh armed with a 'Takua'; his son Sukchain Singh (appellant No.5) armed with a 'kirpan'; Baljit Singh (appellant No.2) armed with a 'dang'; Nirmal Singh (appellant No.8) armed with a 'dang'; Harbhajan Singh (appellant No.9) armed with a 'kappa'; Chhinder Kaur (appellant No.3) empty handed; Jagjit Singh (appellant No.6) son of Koer Singh empty handed and Lakhwinder Singh alias Lakha (appellant No.7) armed with a pistol got down from the 'Tata Sumo'. Chhinder Kaur (appellant No.3) and Jagjit Singh (appellant No.6) son of Koer Singh raised 'lalkara' to teach the complainant side a lesson for correcting the girdawari of the disputed land. Baljit Singh (appellant No.2) inflicted a 'dang' blow on the neck of the deceased Veer Singh. The blow was inflicted when Veer Singh was just getting up to stand; however, on the blow hitting him, he fell with his face to the ground. Sukhchain Singh (appellant No.5) snatched the licensed rifle of Veer Singh. Jagjit Singh (appellant No.1) inflicted a 'takua' blow with its reverse side to Veer Singh. The blow hit Veer Singh on his left shoulder. Then Balkaran Singh (appellant No.4) inflicted four-five blows from the reverse side of 'kappa' on the waist of Veer Singh (deceased), Lakhwinder Singh

(appellant No.7) fired a shot from his pistol with the intention to kill them. The fire arm shot hit Balbir Singh (PW-11) on his buttock. Harbhajan Singh (appellant No.9) inflicted a 'kappa' blow from its reverse side which hit on the left hand of Amrik Singh (complainant/PW-8) on the finger adjoining the small finger. He inflicted another 'kappa' blow with its reverse side which hit Amrik Singh on the back of his head. When Chhiata Singh (PW-9) came forward to rescue them, Balkaran Singh (appellant No.4) inflicted a 'kappa' blow from its reverse side which hit him (Chhiata Singh/PW-9) on the back of his head. Jagjit Singh (appellant No.1) inflicted a 'takua' blow from its reverse side which hit Chhiata Singh (PW-9) on his right leg. Jagpal Singh and Bhajan Singh raised an alarm of 'na maro na maro' and Chinder Kaur (appellant No.3) stated that it appeared that Veer Singh had died. After that all the accused fled away with their respective weapons and while going Sukhchain Singh (appellant No.5), with the intention to kill them, fired from the gun of Veer Singh (deceased). He (appellant No.5) fired two shots towards the complainant side. Besides, the assailants held out threats that if they informed the police, they would make them understand.

The question regarding nature of possession though has been asserted by the appellants with considerable emphasis; however, no substantial material or document has been brought on record to show that they were in possession of the land where the incident had occurred. A right of private defence is amongst

the general exceptions as contained under Chapter IV IPC. Sections 96 to 106 IPC under Chapter IV IPC relate to the right of private defence. In terms of Section 96 nothing is an offence which is done in the exercise of private defence. Every person in terms of Section 97 IPC has a right, subject to restrictions contained in Section 99 IPC, to defend firstly his own body, and the body of any other person, against any offence affecting the human body and secondly, the property, whether movable or immovable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief or criminal trespass. Section 98 IPC relates to right of a private defence against an act of a person of unsound mind etc. Section 99 IPC relates to acts against which there is no right of private defence. Section 100 IPC relates to the right of private defence which extends to causing death. Section 101 IPC extends to right of private defence to causing any harm other than death. Section 102 IPC deals with commencement and continuance of the right of private defence of the body and Section 103 IPC provides when the right of private defence of property extends to causing death. In terms of Section 105 of the Evidence Act, 1872 the burden of proving the existence of circumstances bringing the case within any of the general exceptions in the IPC, or within any special exception or proviso contained in any other part of the IPC, or in any law defining the offence, is upon the person accused of the offence and the Court is to presume the absence of such circumstances.

Therefore, the burden of establishing a plea of right of private defence is on the appellants and when the prosecution has otherwise established its case it is for the accused in terms of Section 105 of the Evidence Act to establish their case of right of private defence by showing the probabilities.

The prosecution has by way of eye witness account of the deposition of Amrik Singh (complainant/PW-8), Chhiata Singh (PW-9) and Balbir Singh (PW-11) has proved and established their case of assault being committed by the appellants. All of them have stated the manner in which the incident had occurred. Besides, Amrik Singh (complainant/PW-8), Chhiata Singh (PW-9) and Balbir Singh (PW-11) are stamped witnesses and there is no reason to doubt their version. The discrepancies or improvements which are stated by the learned counsel for the appellants to be there are not of much significance so as to hold that the prosecution has been unable to establish its case. In fact learned counsel for the appellants has also not shown any marked discrepancies in the deposition of the prosecution witnesses so as to cast a doubt on its case. Besides, there is medical evidence and evidence of the Investigating officer which prove the investigation that was conducted and the involvement of the appellants. Therefore, the burden of proof of the plea of the appellants of their right of private defence shifts to them and it is for them to show that the death of Veer Singh was caused in exercise of their right of private defence. For this they are liable to show and establish their possession with regard to the

disputed one acre of land which is the bone of contention between the appellants and the complainant side.

The land where the incident occurred is agriculture land in respect of which they have been in some litigation as well. The best evidence would be that of the revenue record particularly of the period of Rabi 2005-06 and Kharif 2006-07 as the incident had occurred on 8.5.2006. No revenue record in the shape of Jamabandi or Girdawari relating to the land in question for the said period has been brought on record by the appellants so as to show their possession. The appellants examined Balwinder Kumar Ahlmad (DW-1) who proved the photostat copy of the complaint (Ex.D3) which was filed on 16.8.2005 by Baljit Singh (appellant No.2). In the said complaint case, the accused had not been summoned. Besides, Sukhdayal, Naib Reader, office of DSP Abohar (DW-2) proved the application filed by Baljit Singh (appellant No.2) against Amrik Singh (complainant/PW-8), Chhiata Singh (PW-9) and Veer Singh (deceased). Janak Singh HRC (DW-3) proved sale deed dated 4.6.1980 (Ex.D6) executed by Karnail Singh son of Nand Singh of village Gaddan Dob. DSP Amrik Singh (DW-4) verified the investigation conducted by Inspector Bhupinder Singh on 14.7.2006. He (DW-4) declared Chhinder Kaur (appellant No.3) to be innocent; besides, he ordered the deletion of the offence under Section 397 IPC. Mohinder Singh No.2564/FZR PC Branch Ferozepur (DW-5) proved the enquiry report (Ex.D7) conducted by DSP (D) Paramjit Singh Parmar.

Besides, Balbir Singh (PW-11) in his cross examination stated that he did not remember whether he had got recorded in his statement (Ex.D2) that the disputed land was being cultivated by Amrik Singh (complainant/PW-8). Balbir Singh (PW-11) was confronted with his statement (Ex.D2) where the said fact had not been recorded. It is also stated by Balbir Singh (PW-11) that in his statement Ex.D2 he did not state that Amrik Singh (complainant/PW-8) had rung them up so as to inform that the Tehsildar was to come to inspect the site and they should reach there in his support. The witness (PW-11) was confronted with his statement Ex.D2 where the fact that Amrik Singh (complainant/PW-8) had rung them up and informed regarding the visit of the Tehsildar, had been recorded. He (PW-11) had called them to get their support. It is further stated by Balbir Singh (PW-11) that in his statement Ex.D2, he did not get recorded that they went to the fields with Amrik Singh (complainant/PW-8) along with .405 bore rifle of Veer Singh. The witness was confronted with his statement Ex.D2 where this fact had been recorded as such.

A reading of the statement (Ex.D2) of Balbir Singh (PW-11) shows that they were three brothers and he was the youngest. Chhiata Singh (PW-9) is the eldest of the brothers, next to him is Randhir Singh. Their sister Rani was married to Amrik Singh (complainant/PW-8) for the last 20 years. It is stated by Balbir Singh (PW-11) in his statement Ex.D2 that his brother-in-law i.e. Amrik Singh (complainant/PW-8) had a land

dispute with his brother Baljit Singh (appellant No.2). The ownership of the land was in the name of his brother Baljit Singh (appellant No.2), however, Amrik Singh (complainant/PW-8) had informed that this land fell in his share in the family partition. He (PW-11) further states that Baljit Singh and Jagjit Singh (appellants No.2 and 1) were real brothers and were married to the daughters of Balvir Singh of their village Mallan. Therefore, Jagjit Singh (appellant No.1) favoured Baljit Singh (appellant No.2) in the dispute, and Amrik Singh (complainant/PW-8) was on the opposite side. Baljit Singh (appellant No.2) had filed a civil suit in the Court in order to get stay and Amrik Singh (complainant/PW8) had filed a case for correction of giradawari on the basis of his possession. A day earlier to Balbir Singh (PW-11) making his statement which he made on 9.5.2006, it is stated that Amrik Singh (complainant/PW-8) had informed them on telephone that the Tehsildar was to come and visit the spot and they should come in his support. Then he (Balbir Singh PW-11) and his elder brother Chhiata Singh (PW-9) and uncle's son Veer Singh (deceased) and Jagpal Singh son of Naib Singh and Harbahajan Singh son of Nirmal Singh residents of Mallan who were known to him, came to village Gaddan Dob by Maruti car of his brother Dheera. Veer Singh had a licensed .405 bore rifle. They all five along with Amrik Singh (complainant/PW-8) went to the fields. Joginder Singh, Patwari had made a hutment in the disputed 'killa' (acre of land) on the eastern side. They all were sitting near the hut, some were sitting on a cot and some

sitting on the land. Then at about 5.30 p.m. Balkaran Singh (appellant No.4) came on a 'Universal Tractor' which was being driven by Jagjit Singh (appellant No.1) along with cultivators on its back. A 'Tata Sumo' came behind the tractor. Balbir Singh then narrated the incident that had occurred in the same manner as it has been stated by Amrik Singh (complainant/PW-8).

It is to be noticed that the statement of Balbir Singh (PW-11) made before the police has been got admitted by the appellants as Ex.D2 and this rather corroborates the stand that Amrik Singh (complainant/PW8) had taken in his statement (Ex.P23) before the Police and also reiterated while appearing as PW-8. However, nothing is there to show that the land where the dispute had occurred was in the possession of Baljit Singh (appellant No.2). The Investigating Officer SI/SHO Sadar Abohar Jaspal Singh (PW-12) had prepared rough site plan (Ex.P38) regarding the place of occurrence. A perusal of the said site plan (Ex.P38) depicts mark 'A' as the place in the site plan where the hut has been constructed. Mark 'B' is shown at a distance of one 'karam' i.e. about five and a half feet from the hut mark 'A'. Mark 'B' has been indicated as the place where before the fight Amrik Singh (complainant/PW-8), Veer Singh (deceased), Balvir Singh, Harbhajan Singh and Jagpal Singh were sitting under the shadow of the hut. Mark 'C' indicates the place where the accused inflicted injuries to Veer Singh (deceased) and the blood stained earth and simple earth was lifted and taken in possession by the police. Mark 'D' is the place where the accused it is stated had

inflicted injuries to Sayala Singh and blood stained earth was lifted and taken in possession. The distance between mark 'B', i.e. the place where the complainant side was sitting before the occurrence and mark 'C' where injuries were inflicted to Veer Singh is about three 'karams' i.e. sixteen and a half feet. It has come on record that the hut had been constructed by Joginder Singh, Patwari brother of Amrik Singh (complainant/PW-8). This aspect has not been disputed by the appellants.

The sale deed dated 3.6.1980 (Ex.D6) is executed by Karnail Singh son of Nand Singh in respect of land comprised in rectangle No.113, killa No.13 min South (2-0) and Killa No.18 min North (4-0) situated in village Gaddan Dob. This land had been under mortgage with possession for a sum of Rs.3375/- vide registered mortgaged deed for 9.6.1977 in favour of Baljit Singh (appellant No.2). The land was sold to Baljit Singh (appellant No.2) for a sum of Rs.7500/-. The said sale deed, however, is inconsequential as thereafter, the family partition between the brothers had been affected, which was affected four-five years earlier to the incident that occurred on 8.5.2006 and this land came in possession of Amrik Singh (complainant/PW-8) and his brother Joginder Singh, Patwari but the possession probably due to the said sale deed (Ex.D6) was recorded in the name of Baljit Singh (appellant No.2).

The enquiry report dated 10.8.2009 (Ex.D7) i.e. with respect to the enquiry conducted by Paramjit Singh Parmar, DSP (D) has been proved by Mohinder Singh (DW-5). In the said

enquiry report the prosecution case is reiterated and it is inter alia mentioned that in the partition Joginder Singh, Patwari had got four and a half acres of land while the other brothers got five acres of land each in village Gaddan Dob. It is also mentioned that Jagjit Singh (appellant No.1) and Baljit Singh (appellant No.2) were married with the daughters of Balvir Singh, resident of Mallan. Jagjit Singh and Baljit Singh (appellants No.1 and 2) were on one side while the three other brothers were on their opposite side. One 'Killa' (acre) of land which had come to the share of Amrik Singh (complainant/PW-8) at village Gaddan Dob was being demanded by Baljit Singh (appellant No.2) from Amrik Singh (complainant/PW-8). The said land was being demanded by Baljit Singh (appellant No.2) from Amrik Singh (complainant/PW-8) when the family was joined. After purchase of this land from Nirmal Singh etc. sale deed was executed in favour of Baljit Singh (appellant No.2). One 'killar' (acre) of land fell to his share from the land owned by Amrik Singh (complainant/PW-8). Baljit Singh (appellant No.2) filed a civil suit to get a stay of this land. Baljit Singh (appellant No.2) being owner of this 'killar' (acre), the 'girdwari' was entered in his name and Amrik Singh (complainant/ PW-8) had filed a case in the Court of Tehsildar for correction of 'khasra girdawri'. The Tehsildar was to visit the spot on 08.05.2006. The relatives of both the side had reached the spot. For some reason, the visit of the Tehsildar was cancelled. A dispute arose between both the parties at about 5.30 pm. Jagjit Singh (appellant No.1) etc. with their respective

weapons caused injuries to Amrik Singh (complainant/PW-8) etc. Due to the injuries, Veer Singh son of Kartar Singh resident of Mallan, Police Station Kot Bhai, had died. Amrik Singh (complainant/PW-8), Chhiata Singh (PW-9) and Balbir Singh (PW-11) suffered injuries. DSP Mahender Singh in his inquiry (Ex.D7) submitted that on 08.05.2006 i.e. the day of occurrence Nirmal Singh (appellant No.8) son of Karnail Singh resident of 'Pacca Seed Farm' was putting earth in his tractor trolley in the streets from morning till evening due to pavement of the streets of 'Pacca Seed Farm', Abohar. He was not present in the village. His involvement in the dispute was not established. It was also found that Nirmal Singh (appellant No.8) and Amrik Singh (complainant/PW-8) were cousin brothers from their paternal side. Nirmal Singh (appellant No.8) had earlier sold one 'killa' of land to Amrik Singh etc. who were joined at that time and they had executed the sale deed (Ex.D6) in favour of their brother Baljit Singh (appellant No.2) and from the very beginning Amrik Singh (complainant/PW-8) was cultivating the same. At the time of family partition this 'killa' (acre of land) had come to the share of Amrik Singh (complainant/PW-8). Because of strained relations between the brothers, Baljit Singh (appellant No.2) later started demanding this one 'killa' (acre) of land from Amrik Singh (complainant/PW-8) as the sale deed (Ex.D6) was in his (Baljit Singh's) favour; however, the possession was with Amrik Singh (complainant/PW-8). In the column of cultivation the name of Amrik Singh (complainant/PW-8) was being recorded. Amrik

Singh (complainant/PW-8) was putting pressure on Nirmal Singh (appellant No.8) to depose in his favour before the Tehsildar because he was not doing so, Amrik Singh (complainant/PW-8) wrongly mentioned his (Nirmal Singh's) name in this case. In fact Amrik Singh (complainant/PW-8) it was found did not visit village Gaddan Dob so he was found to be innocent in this case.

A perusal of the above inquiry report (Ex.D-7) which was submitted by DSP Mahender Singh and has been produced on record by the appellants in their defence evidently shows that the disputed one acre of land was purchased jointly by the family but the sale deed was executed in favour of Baljit Singh (appellant No.2). Although in the family partition this one acre of land fell to the share of Amrik Singh (complainant/PW-8). Therefore, as has already been noticed no material has been placed on record to show that the appellants were in possession of the one acre of land which is subject matter of dispute between the parties. Rather it is established that the place where the fight had taken place was in possession of Amrik Singh (complainant/PW-8). In the circumstances, the plea of right of private defence raised by the appellants, the burden of proof of which is on them, remains unsubstantiated from the evidence and material on record. The appellants have not been able to establish from any material that they were in possession of the land except for the order dated 01.08.2005 (Ex.D-8) passed by the learned Additional Civil Judge (Senior Division), Abohar in which stay was granted in favour of Baljit Singh (appellant No.2)

against Amrik Singh (complainant/PW-8) and their brother Joginder Singh, Patwari. The said stay was an ex parte one; besides, it was nine months earlier to the incident that had occurred on 08.05.2006. The latest position with regard to the case was not brought on record by the appellants. In case Baljit Singh (appellant No.2) was in cultivating possession of the land so as to put forth the plea of right of private defence, he was liable to produce on record the revenue records, which in terms of Section 35 of the Evidence Act, 1872 are relevant and also carry a presumption of truth. Besides, failure to produce documentary evidence in support of their plea which are available in the shape of revenue records would entail an adverse inference being drawn against them. As such the plea of right of private defence raised by the appellants is clearly unfounded and is not established.

Another aspect that has been raised by the appellants is that the Tehsildar was not to visit the spot on 08.05.2006 i.e. the date when the incident had occurred. In support of this, a reference has been made to the deposition of Sandeep Kumar, Reader to Tehsildar, who appeared as PW-10. Sandeep Kumar (PW-10) had brought the summoned record that is case No.197 of AC Ist Grade dated 10.11.2005/17.08.2005 titled Amrik Singh v. Tara Singh and others for correction of 'khasra girdwari'. This application/case it is stated has been consigned to the record room as *sine die* vide order dated 10.08.2006. In cross-examination it is stated as correct by Sandeep Kumar (PW-10)

that as per file there was no mention of any order that on what date the Tehsildar was to visit the spot for spot inspection for correction of 'khasra girdwari'. It is further stated as correct that on 10.08.2006 final orders were passed by the Staff of Assistant Collector Ist, Abohar that nothing was to be done that both the parties did not appear and the petition was consigned *sine die*. It is stated as correct that there was no order for correction of 'khasra girdwari' and the 'girdwari' already existing remained intact.

It is to be noticed that from the tenor of the cross examination, the Tehsildar was in fact to visit the spot, however, there was no mention in any order as to on what date he was to visit. The question whether there is no order of the Tehsildar regarding the visit to the spot, in any case, is not of much significance. The proceedings in revenue Courts, though unfortunate, are not carried out with as much precision as they ought to be and there is an element of some casualness in recording 'zimini' orders (interim orders). During the course of proceedings relating to correction of 'khasra girdwari', the revenue officers generally do go and rightly so, for spot inspection to verify for themselves the actual position of possession at the spot. DSP Mahender Singh in his report (Ex.D-7), which report has been brought on record by the appellants, has made a mention from his inquiry that the Tehsildar was to visit the spot in dispute on the date of occurrence, however, for some reason his visit got cancelled. It is

later during the day at about 5.30 pm when the dispute had occurred.

In the circumstances, in the deposition of Sandeep Kumar, Reader to Tehsildar, Abohar (PW-10) it has been stated that there is no mention in any order as to on which date the Tehsildar was to visit the spot for spot inspection for correction of 'khasra girdawri' is not of such consequences so as to dislodge the prosecution case regarding the visit of the Tehsildar or that the complainant side had gathered to take forcible possession of the disputed one acre of land.

The position, therefore, that is brought out is that the prosecution has established its case against the appellants. The role attributed to each of the appellants has been established on record by the deposition of Amrik Singh (complainant/PW-8), Chhiata Singh (PW-9) and Balbir Singh (PW-11), who are injured witnesses and, therefore, stamped witnesses. In Balwan v. State of Haryana, (2014) 13 SCC 560 it was held by the Hon'ble Supreme Court that it is trite law that the evidence of an injured witness, being a stamped witness, is accorded a special status in law. This is as a consequence of the fact that injury to the witness is an inbuilt guarantee of his presence at the scene of the crime and because the witness would not want to let the actual assailant go unpunished. The evidence, therefore, of stamped witnesses, as in the present case, are to be given due weightage as their evidence has an inbuilt guarantee of their presence at the place and time of occurrence. Besides, the medical evidence

on record also goes to establish the cause of death of Veer Singh. At the time of occurrence i.e. at about 5.30 pm on 08.05.2006, the complainant side was waiting for the Tehsildar to come at the spot for verification as to who was in possession for the purpose of correcting the 'khasra girdwari'. At that time the assailants came. Amrik Singh (complainant/PW-8) has stated that he also cultivates the land of his brother Joginder Singh, Patwari on contract basis. It is in the land of Joginder Singh, Patwari that there is stated to be a hutment. The fact that the land of Joginder Singh, Patwari is being cultivated by Amrik Singh (complainant/PW-8) would go to show that it was the complainant side that was in possession and occupation of the disputed land. When the assault was started by the assailants, according to Amrik Singh (complainant/PW-8) they did not know what had happened. Veer Singh (deceased) was still to stand up that Baljit Singh (appellant No.2) inflicted a 'dang' blow on the back of his neck. Sukhchain Singh (appellant No.5) lifted the rifle of Veer Singh that he was carrying in his hand. Jagjit Singh (appellant No.1) inflicted a 'takua' blow from its reverse side on the back of left shoulder of Veer Singh. Balkaran Singh (appellant No.4) inflicted four-five blows from the reverse side of 'kappa' that he was carrying on the waist of Veer Singh. Veer Singh fell with his face to the ground and he became unconscious. The three appellants i.e. Baljit Singh (appellant No.2), Jagjit Singh (appellant No.1) and Balkaran Singh (appellant No.4) are attributed injuries on the person of Veer

Singh (deceased). Dr. K.D. Washisht (PW-3) conducted the postmortem examination on the dead body of Veer Singh and he noticed that; there were swelling with bluish contusion 4 x 2 cm on the right temporal region and swelling extending up to the whole of the back of the neck; there was bluish contusion 2 x 2 cm on the left temporal region; both the eyes and surrounding area swollen and bluish in colour; fluid blood was coming out of the right ear and nose and there were multiple abrasions on back of chest and abdomen and buttock of left side. On dissection corresponding to injuries No.1 and 2 there were subcutaneous ecchymosis present. The corresponding underlying bones of the skull were fractured. There were tears and meninges and brain corresponding to the injuries. Free-fluid blood was present in the brain cavity. In the opinion of Dr. K.D. Washisht (PW-3), the cause of death was hemorrhage, shock and injuries to the brain as already described i.e. injuries No.1 and 2 which were sufficient to cause death of a person in the natural course of duration. The injuries were ante mortem in nature.

From the nature of injuries on the person of Veer Singh, it cannot be said that the ocular account is not in conformity with the medical evidence. Dr. K. D. Washisth (PW-3) in cross examination stated as correct that injury No.1 on the person of deceased could be possible with a big sized blunt weapon. Besides, it is stated that he could not comment that injury No.1 could be possible with a 'dang' of normal size. He further stated that injury No.2 on the person of deceased could

be possible by fall. It is stated as correct that after receipt of injury No.1, there was every possibility of deceased falling. Injury No.3, it is stated could be due to hemorrhage in case of injuries Nos.1 and 2. It is also stated that injury No.4 would be due to injury No.1. Then it is voluntarily stated that it could be also on account of injury No.2. Injury No.5, it is stated could be due to individual blow but he had not mentioned the number of injury (Sic. injuries) in injury No.5. It is stated as correct that in the postmortem report he had left blank the column regarding; 'time between injuries and death and death and postmortem examination'. Dr. K. D. Washisth (PW-3) in his cross examination clarified the medical evidence. From the eye witness account and the medical evidence, it cannot be said that the said three appellants namely, Bajit Singh (appellant No.2), Jagjit Singh (appellant No.1) and Balkaran Singh (appellant No.4) were not responsible for causing the death of Veer Singh. They had in fact attacked Veer Singh (deceased) in all likelihood as he was carrying a gun. However, from the facts and circumstances, it cannot be said that they had a common intention to cause the death of Veer Singh although the same intention was formed at the time of occurrence. The intention to be common it is to be shown that the assailants shared with prior meeting of minds to commit the murder of Veer Singh.

In Mahbub Shah v. Emperor, AIR 1945 PC 118, it was held that for common intention there must be pre-arranged plan and the criminal act must be in concert of that plan. Besides,

same intention is not common intention. Care is to be taken not to confuse same or similar intention with the common intention; the partition which divides 'their bounds' is often very thin; nevertheless the distinction is real and substantial, and if overlooked would result in miscarriage of justice. The inference of common intention within the meaning of the term in Section 34 IPC, it was held, should never be reached unless it is a necessary inference deducible from the circumstances of the case.

There is no evidence of any pre-arranged plan or pre concert to commit the murder of Veer Singh. In fact this is not even the case of the prosecution that the appellants with a prior meeting of mind had undertaken to commit the murder of Veer Singh. The pre-arranged plan of the appellants which can be gathered from the evidence on record was only to project before the Tehsildar who was to visit the spot to show and represent that they in fact were in possession of the disputed one acre of land. Therefore, the said three appellants acted with a similar intention and not a common one. They had individually participated in committing the murder of Veer Singh. Therefore, they are liable for the offence punishable under Section 302 IPC. Besides, Baljit Singh (appellant No.2) is also attributed along with Nirmal Singh (appellant No.8) to inflicting 'dang' blow turn by turn which hit Chhiata Singh on the left side of back and left side of chest. Jagjit Singh (appellant No.1) is also attributed a 'takua' blow on the back of the lower leg of Chhiata Singh

(PW-9). Injuries No.4 and 5 on the person of Chhiata Singh (PW-9) as mentioned by Dr. Resham Singh (PW-1) are attributed to Baljit Singh (appellant No.2) and Nirmal Singh (appellant No.8). These were caused with blunt weapon. Besides, injury No.6 on the person of Chhiata Singh (PW-9) as mentioned by Dr. Resham Singh (PW-1) is attributed to Jagjit Singh (appellant No.1), which was mentioned had been caused with a blunt weapon. Injuries No.4, 5 and 6 on the person of Chhiata Singh (PW-9) were found to be simple in nature. Therefore, Baljit Singh (appellant No.2) and Jagjit Singh (appellant No.1) are also liable for committing the offence under Section 323 IPC.

Sukhchain Singh (appellant No.5) is attributed two blows with the 'kirpan' that he was carrying, on the person of Chhiata Singh (PW-9), which hit him on the left side of his hand. Chhiata Singh (PW-9) in his deposition stated that Sukhchain Singh (appellant No.5) inflicted two 'kirpan' blows which hit him on his left palm. Dr. Resham Singh, SMO, Civil Hospital, Abohar (PW-1) had examined Chhiata Singh (PW-9) on 08.05.2006 at 7.30 pm. He found six injuries on his person. Injuries No.2 and 3 are attributed to Sukhchain Singh (appellant No.5). Injury No.2 is an incised wound 8 cm x 2 cm x bone deep present around the base of index finger of left hand extending to the palm. Wound was freshly bleeding and x-ray was advised. Injury No.3 is an incised wound 3 cm x 1/2 cm x muscle deep present on the front of base of the thumb of left hand. The wound was freshly bleeding and x-ray was advised. It is further stated

regarding nature of injuries that injuries No.1 to 6 were kept under observation and injuries No.1, 4, 5 and 6 were caused by blunt weapon and injuries No.2 and 3 were caused by blunt (sic. sharp) weapon. Probable duration is mentioned as within 12 hours. Ex.P3 is carbon copy of the MLR whereas Ex.P4 was the pictorial diagram showing the seats of injuries. On receipt of x-ray report, he (PW-1) declared injuries No.2 and 3 as grievous in nature and injuries No.1, 4, 5 and 6 as simple in nature on the basis of x-ray report. Dr. Resham Singh (PW-1) has mentioned the kind of weapon used for injuries No.2 and 3 as blunt; however, this appears to be a typographical error as the injuries were incised and prior to mentioning that these were blunt, the doctor (PW-1) has mentioned that injuries No.1, 4, 5 and 6 were caused by blunt weapon, therefore, there was no need to again say that injuries No.2 and 3 were caused with blunt weapon. Besides, as per MLR (Ex.P3) in respect of Chhiata Singh, injuries No.2 and 3 it is clearly mentioned as having been caused by sharp edged weapon. These were grievous injuries in nature. Therefore, Sukhchain Singh is liable to be held guilty for the offence under Section 326 IPC.

Insofar as the conviction of Sukhchain Singh (appellant in CRA No.2304-SB of 2009) under Section 25 of the Arms Act is concerned, it may be noticed that he is said to have snatched the .405 rifle of Veer Singh (deceased), which the latter was carrying while waiting for the Tehsildar to visit the spot for verification. Amrik Singh (complainant/PW-8) stated that

Sukhchain Singh (appellant in CRA No.2304-SB of 2009) lifted the rifle which Veer Singh was carrying. In order to establish the case under Section 25 of the Arms Act, the prosecution examined Jaspal Singh, Arms Clerk, Office of DM, Muktsar (PW-1), according to him the arms license in the name of Veer Singh was renewed upto 22.05.2008. Jagan Nath, Clerk, DRAT Branch, Ferozepur (PW-2) proved the sanction letter (Ex.P1/A) issued by Dr. Arvinder Singh, the then District Magistrate, Ferozepur. HC Baltej Singh (PW-3) was posted at PS Sadar, Abohar on 16.05.2006. On that day, he along with SI Jaspal Singh (PW-4) and Bhajan Singh @ Harbhajan Singh Sarpanch in connection with investigation of case FIR No.101 dated 08.05.2006 under Section 302 etc. IPC, PS Sadar got recovered a .405 bore rifle with one live cartridge from the room meant for storing wheat husk in the residential house of Sukhchain Singh. The recovery was effected on the basis of disclosure statement made by Sukhchain Singh (appellant). However, in cross-examination he (PW-3 HC Baltej Singh) stated that on the day of occurrence he visited the spot along with SI Jaspal Singh (PW-4), who was IO in the case. It is stated as correct that the said rifle belonged to deceased Veer Singh and it was lying there at the spot when the police party reached there. Besides, SI Jaspal Singh (PW-4) also deposed regarding the recovery of .405 rifle along with one live cartridge from the room meant for storing wheat husk from the house of Sukhchain Singh (appellant). In cross-examination it is stated by SI Jaspal Singh (PW-4) that he did not know if the said

rifle was sent by the MHC to the ballistic expert for test and whether it was in working order or not. He had deposited the same with the MHC and thereafter he was transferred. He also stated that he never test fired the said gun at the spot that is the spot from where it was recovered. He also stated that when he was transferred from the police station he orally asked the MHC to send the rifle for test to the ballistic expert.

From the evidence that has been led, the case against Sukhchain Singh (appellant) for the offence under Section 25 of the Arms Act cannot be said to be made out inasmuch as the recovery of the .405 rifle from the house of Sukhchain Singh (appellant) is doubtful as HC Baltej Singh (PW-3) in his cross-examination categorically stated that he visited the spot on the date of occurrence along with SI Jaspal Singh (PW-4) who was the IO of the case and the rifle which belonged to deceased Veer Singh was lying at the spot when the police party reached there. Besides, the recovered rifle was not sent to the ballistic expert for test whether it was in working order or whether it was a firearm. Therefore, the prosecution case for the offence under Section 25 of the Arms Act against Sukhchain Singh (appellant) is not made out and is liable to be acquitted for the said offence.

Harbhajan Singh (appellant No.9) according to Amrik Singh (complainant/PW-8) inflicted a 'kappa' blow from its reverse side on his person, when he raised his hand to ward off the blow in order to save himself. The blow hit him on the ring finger of his left hand. He inflicted another blow with the reverse

side of 'kappa' which hit him on his head. Dr. Resham Singh, SMO, Civil Hospital, Abohar (PW-1) on 08.05.2006 at 8.15 am (sic. 8.15 pm) examined Amrik Singh (complainant/PW-8). There were two injuries on his person. One was lacerated wound 6 cm x ½ cm x muscle deep present on parietal region of the head at midline. Fresh bleeding was present and x-ray was advised. The second was a lacerated wound 1 ½ cm x ½ cm on back of lower part of ring finger of left hand. The wound was freshly bleeding and was surrounded by swelling. Tenderness was present and x-ray was advised. Both the injuries were kept under observation and were caused with the blunt weapon. The probable duration was within twelve hours. On receipt of x-ray report from Radiologist, the doctor declared injuries No.1 and 2 as simple in nature. Therefore, the offence under Section 323 IPC is made out against Harbhajan Singh (appellant No.9).

Nirmal Singh (appellant No.8) according to the prosecution was armed with a 'danda' and he along with Baljit Singh (appellant No.2) inflicted a blow each turn by turn which hit Chhiata Singh (PW-9) on the left side of his chest and left side of his back. Dr. Resham Singh (PW-1), as already noticed, examined Chhiata Singh (PW-9) and injuries No.2 and 3 were attributed to Sukhchain Singh (appellant No.5). Injuries No.1, 4, 5 and 6, it is mentioned, were caused by blunt weapon. Injury No.1 is a lacerated wound 2 ½ cm x ½ cm x muscle deep present on left parietal region of head. The wound was situated obliquely 6 cm lateral to midline. Fresh bleeding was present and x-ray

was advised. Injury No.4 was a reddish contusion 14 cm x 2 ½ cm present on back of left half of chest extending to back of left shoulder. It was situated obliquely and tenderness was present and x-ray was advised. Injury No.5 is reddish contusion 6 cm x 1 ½ cm present on left half of chest. Tenderness was present. X-ray was advised. Injury No.6 is a lacerated wound 2 cm x 1cm x skin deep present on front of right leg on its lower half. Fresh bleeding was present x-ray was advised. Dr. Resham Singh (PW-1) opined that injuries No.1, 4, 5 and 6 were caused by blunt weapon and after x-ray report these were declared simple in nature. Therefore, Nirmal Singh (appellant No.8) and Baljit Singh (appellant No.2) are liable for causing simple injuries on the person of Chhiata Singh (PW-9) and thereby committing an offence punishable under Section 323 IPC.

Lakhwinder Singh @ Lakha (appellant No.7) at the time of incident, according to Chhiata Singh (PW-9) was carrying a pistol and had fired shot with it with the intention to kill the complainant side. The firearm shot hit on the buttock of Balbir Singh (PW-11), brother of Chhiata Singh (PW-9). It is to be noticed that the sister of Chhiata Singh (PW-9) and Balbir Singh (PW-11) sons of Mal Singh namely Rani is married to Amrik Singh (complainant/PW-8). She was married 20 years earlier to the incident that had occurred. According to Dr. Resham Singh (PW-1), he medico legally examined Balbir Singh (PW-11) son of Mal Singh on 08.05.2006 at 7.00 pm. He found a lacerated wound ½ cm x ½ cm x depth not probed on the upper part of

upper outer quadrant of left buttock. Margins were inverted. Wound was freshly bleeding. X-ray was advised. There was a corresponding hole in the underwear and 'pajma' worn by the injured (Balbir Singh). The injury and the kind of weapon used were kept under observation. On receipt of x-ray report from the Radiologist, Civil Hospital, Abohar, the doctor (PW-1) declared injury No.1 on the person of Balbir Singh (PW-11) as simple in nature on the basis of x-ray report. ASI Sukhmander Singh (PW-13) moved an application (Ex.P47) regarding the kind of weapon used for the injury on the person of Balbir Singh (PW-11). As per opinion (Ex.P47/A) of the doctor, the weapon used for the injury on the person of Balbir Singh (PW-11) was mentioned as pointed blunt weapon. The investigation in the case was conducted by SI/SHO Jaspal Singh (PW-12). The recoveries in the case were effected by him, however, he does not mention the recovery of any pistol from Lakhwinder Singh (appellant No.7). Besides, HC Gurmit Singh (PW-6) was posted at Police Station Sadar Abohar on 09.05.2006. On that day, SI/SHO Jaspal Singh (PW-12) had deposited with him various articles of the case properties includes .405 bore rifle and one cartridge but there is no mention of any pistol being deposited by SI/SHO Jaspal Singh (PW-12) with HC Gurmit Singh (PW-6). Therefore, there is no recovery of the pistol said to be used by Lakhwinder Singh (appellant No.7) at the time of occurrence. Besides, the medical opinion Ex.P47/A as regards the injury on the person of Balbir Singh (PW-11) attributed to Lakhwinder

Singh @ Lakha (appellant No.7) is the result of a pointed blunt weapon and is not specifically alleged to be the result of a firearm injury. Therefore, benefit of doubt is liable to be given to Lakhwinder Singh (appellant No.7).

Chhinder Kaur (appellant No.3), Jagjit Singh (appellant No.6) son of Koer Singh and even Lakhwinder Singh (appellant No.7), it is to be noticed, in fact were not sent up for trial and were kept in column No.2 of the police report ('challan'). According to Amrik Singh (complainant/PW-8) no overt act was attributed to them. Chhinder Kaur (appellant No.3), as already noticed, is the wife of Baljit Singh (appellant No.2). She was stated to be empty handed at the time of occurrence and she along with another unidentified person had raised a 'lalkara'. The deposition of Chhiata Singh (PW-9) in Court is that Chhinder Kaur (appellant No.3) and Jagjit Singh (appellant No.6) of Naruana had raised a 'lalkara' and stated that the complainant side be taught a lesson for correction of the 'khasra girdwari' of the land. Therefore, the unidentified person who raised 'lalkara' along with Chhinder Kaur (appellant No.3) is Jagjit Singh (appellant No.6) son of Koer Singh.

Chhinder Kaur (appellant No.3), Jagjit Singh (appellant No.6) son of Koer Singh, Lakhwinder Singh (appellant No.7), Nirmal Singh (appellant No.8) and Harbhajan Singh (appellant No.9) were summoned as additional accused by the learned Additional Sessions Judge, Ferozepur vide order dated 19.04.2007. The prosecution filed an application in terms of

Section 319 Cr.P.C. alleging that Chhiata Singh (PW-9) while appearing in the witness box initially as PW-1 had attributed specific role to Chhinder Kaur (appellant No.3), Nirmal Singh (appellant No.8), Harbhajan Singh (appellant No.9), Lakhwinder Singh (appellant No.7) and Jagjit Singh (appellant No.6) son of Koer Singh. It was alleged that Lakhwinder Singh (appellant No.7) was armed with a pistol. Harbhajan Singh (appellant No.9) was armed with a 'kappa' and Nirmal Singh (appellant No.8) was armed with a 'dang' and they caused injuries to the complainant. In the incident that had occurred, the role of causing simple hurt is attributed to Nirmal Singh (appellant No.8) and Harbhajan Singh (appellant No.9); however, there is nothing substantial against Chhinder Kaur (appellant No.3), Jagjit Singh (appellant No.6) son of Koer Singh and Lakhwinder Singh (appellant No.7) as has been considered above. Therefore, Chhinder Kaur (appellant No.3), Jagjit Singh (appellant No.6) son of Koer Singh and Lakhwinder Singh (appellant No.7) are liable to be acquitted.

The question regarding payment of compensation is also to be considered. The appellants i.e. Jagjit Singh (appellant No.1), Baljit Singh (appellant No.2) and Balkaran Singh (appellant No.4) had caused injuries to the deceased Veer Singh, which resulted in his death. Therefore, the said appellants are liable to pay compensation for the death of Veer Singh. Veer Singh (deceased), it is stated was about 55 years of age. He has two daughters, a son and a wife. Besides, he had about 12 acres of land. Keeping in view the facts and circumstances of the case,

compensation of Rs.7,50,000/- would be just and proper and shall be recoverable jointly and severally from the said three appellants.

Insofar as CRR No.138 of 2010 filed by Amrik Singh (complainant/PW-8) is concerned, a prayer has been made for enhancement of the sentence. However, the sentence imposed is not to be normally enhanced in exercise of the revisional jurisdiction of this Court. It is to be noticed that the proviso to Section 372 Cr.P.C. provides for filing an appeal by a 'victim' against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation. It does not provide for filing an appeal against inadequate sentence. However, in an appropriate case the revisional jurisdiction may be exercised for enhancement of sentence although it is to be seldom and may be in some exceptional cases. The present, however, is not such a case. As has been considered and discussed above. In the facts and circumstances no ground whatsoever is made out for enhancing the sentence.

In the circumstances, Jagjit Singh (appellant No.1), Baljit Singh (appellant No.2) and Balkaran Singh (appellant No.4), who inflicted injuries on the person of deceased Veer Singh are liable for the offence under Section 302 IPC and they are accordingly convicted for the said offence by upholding the conviction recorded by the learned Additional Sessions Judge, Ferozepur for the said offence and they are sentenced to undergo

life imprisonment for the said offence under Section 302 IPC. Besides, Baljit Singh (appellant No.2) and Jagjit Singh (appellant No.1) are also convicted for the offence under Section 323 IPC for which they are sentenced to the period already undergone by them. The said appellants No.1, 2 and 4 are acquitted of the offence under Section 148 IPC and the common object of an unlawful assembly in terms of Section 149 IPC is also not made out.

Harbhajan Singh (appellant No.9) is convicted for the offence under Section 323 IPC only by upholding his conviction as recorded by the learned Additional Sessions Judge for the said offence. He was sentenced by the learned Additional Sessions Judge, Ferozepur on 16.09.2009 and was released on bail by this Court on 16.07.2010. Considerable time had lapsed thereafter. He inflicted a 'kappa' blow from its reverse side on the person of Amrik Singh (complainant/PW-8), when he raised his hand to ward off the blow in order to save himself. The blow hit him on the ring finger of his left hand. He also inflicted another blow with the reverse side of 'kappa' which hit Amrik Singh (complainant/PW-8) on his head. Dr. Resham Singh, SMO, Civil Hospital, Abohar (PW-1) on receipt of x-ray report from Radiologist, declared both the injuries as simple in nature. Therefore, Harbhajan Singh (appellant No.9) is sentenced to the period already undergone. He is acquitted of the other offences.

Sukhchain Singh (appellant No.5) is held guilty and convicted for the offence under Section 326 IPC only by

upholding the sentence as awarded by the learned Additional Sessions Judge, Ferozepur for the said offence; however, he (Sukhchain Singh-appellant) is acquitted for the other offences including the offence under Section 25 of the Arms Act in CRA No.S-2304-SB of 2009. He was convicted and sentenced by the learned Additional Sessions Judge on 16.09.2009 for the offences punishable under Sections 302 etc. and he was released on bail by this Court on 24.01.2013. Therefore, he is sentenced to the period already undergone.

Nirmal Singh (appellant No.8) is convicted for the offence under Section 323 IPC only by upholding the sentence awarded by the learned Additional Sessions Judge, Ferozepur for the said offence. He was sentenced by the learned Additional Sessions Judge on 16.09.2009. He was released on bail by this Court on 17.05.2010 and he is sentenced to the period already undergone. He is acquitted of the other offences.

Chhinder Kaur (appellant No.3), Jagjit Singh (appellant No.6) son of Koer Singh and Lakhwinder Singh (appellant No.7) are acquitted of the offences attributed to them and their conviction and sentence awarded by the learned Additional Sessions Judge, Ferozepur are set aside. The sentences of imprisonments of Chhinder Kaur (appellant No.3), Jagjit Singh (appellant No.6) son of Koer Singh and Lakhwinder Singh (appellant No.7) were suspended on 28.01.2010, 18.03.2010 and respectively. Their bail bonds shall stand discharged.

With the above modifications of the convictions and sentences of imprisonments in respect of Jagjit Singh (appellant No.1), Baljit Singh (appellant No.2), Balkaran Singh (appellant No.4), Sukhchain Singh (appellant No.5), Nirmal Singh (appellant No.8) and Harbhajan Singh (appellant No.9); besides, the acquittal of Chhinder Kaur (appellant No.3), Jagjit Singh (appellant No.6) son of Koer Singh and Lakhwinder Singh (appellant No.7), as also acquittal of Sukhchain Singh (appellant) of the offence under Section 25 of the Arms Act in CRA No.S-2304-SB of 2009, the appeals and the revision petition are disposed of. The appellants Jagjit Singh (appellant No.1), Baljit Singh (appellant No.2), Balkaran Singh (appellant No.4) shall pay an amount of Rs.7,50,000/- to the LRs of deceased Veer Singh, which shall be recoverable jointly and severally from them.

(S.S.Saron)
Judge

(Amol Rattan Singh)
Judge

19.10.2015
A.Kaundal

-contd.-

CRA No.D-838-DB of 2009 (O&M) ,
CRA No.S-2304-SB of 2009 (O&M) &
CRR No.138 of 2010

[92]

Though this judgment is being released late by us, however, the detailed judgment being as per the order pronounced in Court by us, I am therefore in agreement with the judgment of my learned brother, S.S. Saron, J.

(AMOL RATTAN SINGH)
JUDGE

19.10.2015
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