

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

**1. Date of decision: 07.01.2015
Crl. Appeal No. S-207-SB of 2004 (O&M)**

Sukhdev Singh

.....Appellant

Versus

The State of Punjab

.....Respondent

2. Crl. Appeal No. S-306-SB of 2004 (O&M)

Bhajan Singh

.....Appellant

Versus

State of Punjab

.....Respondent

3. Crl. Appeal No. S-1214-SB of 2004 (O&M)

Kashmir Singh

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: None for the appellant (in CRA-S-207-SB of 2004)

**Mr. M.S. Sidhu, Advocate,
for the appellant (in CRA-S-306-SB of 2004).**

**Mr. O.P. Kamboj, Advocate,
for the appellant (in CRA-S-1214-SB of 2014).**

Mr. Daljit Singh Virk, AAG, Punjab.

Ritu Bahri, J.

Appeal No. S-306-SB of 2004 and Crl. Appeal No.S-1214-SB of 2004, as common questions of law and facts are involved in all the appeals being arisen out of one judgment.

All these appeals have been filed against the judgment of conviction and order of sentence dated 01.12.2003 passed by the Additional Sessions Judge, Ferozepur, whereby accused-appellants namely Bhajan Singh, Kashmir Singh and Sukhdev Singh have been convicted and sentenced as under:-

Name of the accused	Offence	Sentence of Imprisonment	Sentence of fine	In default.
Bhajan Singh	U/S 324 IPC	RI for 2 years	Rs.2000/-	Six months
	U/S 452 IPC	RI for 4 years	Rs.1000/-	Four months
Kashmir Singh	U/S 324/34 IPC	RI for 2 years	Rs.2000/-	Six months
	U/S 452 IPC	RI for 4 years	Rs.1000/-	Four months
Sukhdev Singh	U/S 324/34 IPC	RI for 2 years	Rs.2000/-	Six months
	U/S 452 IPC	RI for 4 years	Rs.1000/-	Four months.

Brief facts of the case are that Kala Singh-deceased along his wife Guro Bai and children was residing in Basti Labh Singh Dakhli. He was an agriculturist and owned six killas of land in village Gajni Wala. Kala Singh had a dispute with Sukhdev Singh and Kashmir Singh with regard to one killa of land and a litigation was going on between them, which resulted in favour of Kala Singh. With the intervention of relatives, a compromise was effected between the parties, according to which, Kala Singh had agreed to transfer one killa of land in their favour for a sum of Rs.1,60,000/-, out of which, Rs.30,000/- were given to him as earnest money on 15.05.2000 and the remaining amount was to be paid on 31.05.2000 i.e. the date of execution and registration of the sale deed. On 29.05.2000, at about 1.00

P.M., Kala Singh along with his wife and children was sleeping in the courtyard of his house. In the meantime, all the accused-appellants came there. However, on hearing the sound of footsteps, Kala Singh and his wife woke up. Sukhdev Singh and Kashmir Singh exhorted Bhajan Singh to teach a lesson to deceased Kala Singh for demanding more money for the execution of the sale deed. Thereafter, Bhajan Singh gave a *dater* blow, which hit above the left eye of Kala Singh, as a result of which, he became unconscious. Guro Bai, wife of Kala Singh, raised an alarm, upon which, all the accused-appellants left the spot with their weapon. Kala Singh was taken to Mission Hospital, Ferozepur, from where he was referred to D.M.C., Hospital, Ludhiana. Information in that regard was sent to the police station, Guruharsahai through wireless. Thereafter, ASI Beant Singh along with other police officials reached D.M.C. Hospital, Ludhiana on 01.06.2000 and sought opinion of the doctor regarding fitness of the injured to make statement. Dr. Amanjit Singh declared the injured fit to make a statement vide endorsement Ex.PB/1. Thereafter, statement of Kala Singh was recorded, on the basis of which, FIR Ex.PC/1 was registered under Sections 324/452/34 IPC and investigation was started. Rough site plan Ex.PD was prepared. Later on, Kala Singh died in the hospital on 12.06.2000. The autopsy on the dead body was performed by Dr. Raj Kumar, who found two ante-mortem injuries on the same. He opined that cause of death was septic due to brain tissue infection, which was sufficient to cause death in the ordinary course of nature. After completion of necessary investigation, challan was prepared and presented in the Court.

On presentation of the challan, charges under Sections 302/34 and 449 IPC were framed against the accused-appellants, to which, they pleaded

In order to prove its case, prosecution examined Guro Bai (PW-1), Sukhdev Singh (PW-2), Beant Singh, ASI (PW-3), Amrik Singh (PW-4), Dr. Raj Kumar (PW-5), Pawan Kumar, Sub Station Attendant, PSEB (PW-6), Darshan Singh, ASI (PW-7), Dr. Amanjit Singh (PW-8) and Balkar Singh (PW-9).

After conclusion of prosecution evidence, statements of accused-appellants under Section 313 Cr.P.C. were recorded, wherein entire incriminating evidence was put to them. However, they denied the same and pleaded false implication. In defence, the accused examined Manminder Singh, SP (DW-1), Mohinder Singh (DW-2), Lachhman Singh (DW-3), Pappu Singh (DW-4), Beant Singh (DW-5), Niranjana Singh (DW-6) and Ashok Bath, SP (D) (DW-7).

The trial Court, after going through the entire evidence led by the parties, convicted and sentenced the accused-appellants in the aforesaid terms. Hence, this appeal.

A perusal of the judgment passed by the trial Court shows that there was a dispute between Kala Singh-deceased on one hand and Sukhdev Singh and Kashmir Singh on the other. Finally, the litigation terminated in favour of Kala Singh. Thereafter, on the intervention of relatives, he had entered into a compromise and agreed to transfer one killa of land in their favour for a sum of Rs.1,60,000/-, out of which, Rs.30,000/- were paid to him as earnest money on 15.05.2000 and the balance amount was to be paid on 31.05.2000. In this background, on 29.05.2000, when Kala Singh, his wife and children were sleeping in the courtyard of their house, both the accused accompanied by Bhajan Singh, who was married to their sister, entered the courtyard and gave a *datar* blow on the left eye of Kala Singh.

Even though, the FIR was registered under Section 302 IPC, but

the trial Court has observed that Kala Singh was admitted in the hospital and he died after 14 days on account of septicaemia and not on account of the injuries inflicted upon him by Bhajan Singh. Thereafter, the accused-appellants have been acquitted of the charge under Section 302 IPC. As per the opinion of Dr. Raj Kumar (PW-5), cause of death of Kala Singh was septicaemia due to brain tissue infection, which was ante-mortem in nature. In his cross-examination, Dr. Raj Kumar had admitted that septicaemia was a result of infection of the wound. Hence, the accused-appellants were convicted under Sections 324 and 451 read with Section 34 IPC.

The incident in the present case, took place on 29.05.2000. The only role attributed to Kashmir Singh and Sukhdev Singh was that they had raised a *lalkara*. They have not inflicted any injury on the person of deceased Kala Singh. Even though, no injury has been attributed to Kashmir Singh and Sukhdev Singh-appellants, but they had the reason to go to the house of Kala Singh and threaten him not to demand more money on account of price of one killa of land. Moreover, litigation of the deceased was going on with these two appellants. Third appellant-Bhajan Singh had accompanied them being relative and inflicted injuries on the deceased. Hence, all the three appellants had a common intention to go to the house of deceased-Kala Singh.

In these circumstances, this Court is of the view that the accused-appellants have been rightly convicted by the trial Court and no illegality, much less irregularity, has been found in the impugned judgment.

Accordingly, the present appeals are dismissed. However, a lenient view can be taken on the quantum of sentence. As per custody certificates, Kashmir Singh has undergone 9 months & 3 days and Sukhdev

Bhajan Singh has undergone 2 years, 1 month and 17 days. The sentence(s) of the appellants were suspended in the year 2004 and thereafter, they have not misused the concession of bail. They are not involved any other criminal trial. The present FIR was registered on 02.06.2000 and the appellants have been facing the agony of a protracted criminal trial for the last more than 14 years. In these circumstances, the sentence of imprisonment awarded to the appellants is reduced to the period already undergone. However, amount of fine imposed upon Bhajan Singh-appellant is being enhanced from Rs.3000/- to Rs.30,000/- as he had inflicted the sole injury on the person of deceased Kala Singh. Further, the amount of fine imposed upon Kashmir Singh and Sukhdev Singh-appellants is being enhanced to Rs.10,000/-each, which shall be deposited by the appellants before the trial Court.

With the above modification/direction, the present appeals i.e. Crl. Appeal No.S-207-SB of 2004, Crl. Appeal No. S-306-SB of 2004 and Crl. Appeal No.S-1214-SB of 2004 stand disposed of.

07.01.2015
ajp

(RITU BAHRI)
JUDGE