

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

**CRA-S No.213-SB of 2004 (O&M)
Date of Decision: 29.07.2015**

Darshan Singh and others

...Appellant(s)

Versus

State of Punjab

...Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Present: Mr. Anmol Partap Singh Mann, Advocate
for the appellants.

Mr. Deep Singh, A.A.G. Punjab.

Mr. Navjot Singh, Advocate for
Mr. Sunil Chadha, Advocate
for the complainant.

ANITA CHAUDHRY, J.

1. Appellants Darshan Singh, his father Disha Singh and Kulwant Singh were sentenced to rigorous imprisonment for a period of 7 years along with a fine of Rs.2,000/- each under Section 307/34 IPC. In default of payment of fine, they were to further undergo rigorous imprisonment for a period of one month.

2. FIR No. 39 was registered on 23.05.1998 on a complaint made by Gulzar Singh relating to an incident which occurred on 22.05.1998. Gulzar Singh and his son Nirmal Singh were working in their fields at 8:00 PM. Darshan Singh, brother of Gulzar Singh, Darshan's son Disha Singh

and Kulwant Singh son of Didar Singh were working in the adjoining fields. Nirmal Singh was blocking holes with a view to water their millet crop. Disha Singh and Kulwant Singh raised Lalkara that Nirmal Singh should be caught and done to death. Gulzar Singh on seeing Darshan Singh walking towards Nirmal Singh armed with a Kahi, told him that they should resolve the dispute in the Panchayat. Not heeding to the request Disha and Kulwant caught hold of Nirmal and threw him on the ground. Darshan Singh gave a Kahi blow on his head from the reverse side. Gulzar Singh raised alarm which attracted Pal Singh and Avtar Singh. The accused fled away. Nirmal Singh was taken to the Primary Health Centre. After first aid, he was referred to Civil Hospital, Ludhiana. The family instead took him to DMC & Hospital, Ludhiana from where Ruka was sent to the police station. Nirmal Singh was unfit to make a statement. Gulzar Singh gave a detailed account of the incident. The complainant also gave the motive for the attack. There was a demarcation dispute with respect to the joint land. The FIR was registered under Section 324/34 IPC. Subsequently, after the Medical Officer had given his opinion, Section 307 IPC was added.

3. On completion of investigation, challan was submitted. Charge was framed under Section 307 read with Section 34 IPC. The prosecution had examined Gulzar Singh, Nirmal Singh and Inderjit Singh, Patwari. Dr. Ripple Sethi PW4 had examined the injured. Manoj Kumar, Record Keeper PW5 had brought the record from DMC & Hospital with

respect to admission of Nirmal Singh. Dr. Komal Malik PW7 from DM College and Hospital proved the MLR and testified that on the basis of C.T. Scan report submitted by Dr. Shard Babu, he had declared the injury dangerous to life.

Beside this, the prosecution had examined ASI Gurnam Singh, Dr. Vipul Gupta and Dr. Sandip Puri. Rest of the witnesses were given up.

4. The accused took the defence of false implication. A plea was taken that Gurmit Singh s/o Darshan Singh used to remain out on account of his work and had developed illicit relations with Nirmal Singh's wife and that was the cause of the attack. Gurmit Singh DW spoke about his affair with the wife of Nirmal Singh and had introduced some letters by way of evidence.

5. The trial Court accepted the evidence and convicted and sentenced the appellants to the sentence mentioned here-in-before. Darshan Singh was convicted and sentenced under Section 307 IPC while the other two were convicted with the aid of Section 34 IPC.

6. When the appeal came up for hearing, the complainant side had also appeared and it was stated that the parties had settled the dispute among themselves. A report from CJM, Ludhiana was called.

7. The question arises whether a compromise can be effected after a conviction has been recorded under Section 307 IPC.

8. Counsel for the appellants urges that they were not asking for acquittal nor the matter can be compounded considering the latest judgments of the Hon'ble Apex Court but they only praying for leniency in the sentence. It was urged that it was a single blow from the reverse side of the Kahi and no injury was inflicted by Disha Singh and Kulwant Singh. It was urged that Darshan Singh had undergone 1 year, 1 month and 24 days of custody while the remaining two had almost completed three months of custody, before they were released on bail. It was urged that the parties had settled their disputes and there has been no other incident in the intervening period and the parties were living in harmony and the sentence be reduced.

9. The complainant side also supports the appellants.

10. Darshan Singh appellant is stated to be over 70 years of age. He is said to have caused one blow from the reverse side of the Kahi. The parties are in complete settlement and there is harmony and their relations have improved. The complainant side has come forward and have prayed for a lenient view.

11. The appellants do not challenge the conviction, as such the order of conviction is upheld.

As regards the prayer of reduction of sentence is concerned, the parties have settled all their disputes. There has been no other incident in the intervening period. The parties have agreed to bury the hatchet. Keeping the entire conspectus into view, I feel that ends of justice would be met

if the sentence awarded to the appellants is reduced to the period already undergone. There would be no modification so far as the order of payment of fine is concerned.

With the above modification alone, the appeal stands disposed of.

**(ANITA CHAUDHRY)
JUDGE**

29.07.2015
'Sunil'