

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S No.515-SB of 2004 (O&M)
Date of Decision: 01.04.2015

Surjan Singh and others

...Appellant(s)

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MS. 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 appellant.

Mr. S.S. Pannu, D.A.G. Haryana.

Complainant/injured Amrit Kaur and Kehar Singh
in person with Mr. Gaurav G.S. Rai, Advocate.

ANITA CHAUDHRY, J.

1. This appeal questions the correctness of the judgement of conviction dated 23.02.2004 and order of sentence dated 25.02.2004, passed by the Fast Track Court, Ambala, vide which the appellants were convicted under Section 307, 323, 325, 506 and 34 IPC and were sentenced to undergo the following punishment:-

Name of accused	Under Section	R.I.	Fine	In default of payment of fine further imprisonment
Surjan Singh	307/34 IPC	4 years	1000/-	1 month
"	325/34 IPC	2 years	200/-	15 days
"	323/34 IPC	6 years	100/-	7 days

"	506/34 IPC	6 months	100/-	7 days
Mohan Singh	307/34 IPC	4 years	1000/-	1 month
"	325/34 IPC	2 years	200/-	15 days
"	323/34 IPC	6 years	100/-	7 days
"	506/34 IPC	6 months	100/-	7 days
Kulbir Singh	307/34 IPC	4 years	1000/-	1 month
"	325/34 IPC	2 years	200/-	15 days
"	323/34 IPC	6 years	100/-	7 days
"	506/34 IPC	6 months	100/-	7 days

2. The occurrence took place in October, 1999. The FIR was registered on the statement of Amrit Kaur. She narrated the incident as follows:-

Mandeep Kaur and her brother-in-law Jarnail Singh were cleaning the Bara (court yard) when Mohan Singh appellant armed with Gandasi, Kala Singh @ Kulbir Singh appellant armed with iron rod and Surjan Singh appellant armed with a lathi arrived on the spot. Mohan Singh declared that they owned the Bara and an altercation ensued. There was an exchange of abuses. Thereafter, the accused-appellants caused injuries to the complainant's husband. Complainant Amrit Kaur tried to intervene but Kala Singh @ Kulbir Singh inflicted injuries upon her which fell on her left hand. She raised alarm and was rescued.

3. On these allegations, the investigations were started. Challan was presented before the Court and trial was commenced which ended in conviction.

4. Aggrieved by the conviction and sentence, present appeal was preferred by the appellants.

5. The counsel appearing for the appellants urged that the parties during the pendency of case have entered

into an amicable settlement/compromise and Annexure A-1 has been placed on record and they have also appended the affidavits of the injured.

6. It was pointed out that a revision had been preferred by the complainant side seeking enhancement of sentence.

7. The counsel appearing for the complainant/injured had urged that they had made a separate statement and were not pressing for their revision. It was stated that the injured were present in the Court and they had voluntarily entered into the compromise and had received compensation.

8. The counsel for the appellants had urged that the incident took place 16 years ago and Surjan Singh appellant was 87 years old. It was contended that Mohan Singh was attributed the injury under Section 307 IPC who has undergone more than 6 months of custody and in terms of law laid down in ***Narinder Singh and others Vs. State of Punjab and another 2014(2) RCR (Crl.) 482, Gulab Das and others Vs. State of M.P. 2012(1) RCR (Crl.) 220, Ishwar Singh Vs. State of Madhya Pradesh 2009(1) RCR (Crl.) 1, Bankat Vs. State of Maharashtra 2005(1) RCR (Crl.) 306, Jai Pal Vs. State of Haryana 2003(4) RCR (Crl.) 860 and Chhota Singh Vs. State of Punjab 1998(1) RCR (Crl.) 466***, since the parties have buried the hatchet by amicable settlement, the Court may allow the matter be compounded or a lenient view be taken with regard to the sentence.

9. The submission of the complainant side was that since the parties have settled their disputes and no dispute had taken place in the intervening period and it would be in the interest of parties if the matter is set at rest as the relationship has normalized.

10. On the other hand, learned State counsel submits that the settlement has been effected after the conviction and the Hon'ble Apex Court has held that the settlement which is immediate after the occurrence, can be accepted, but not when the conviction has been recorded.

11. The appellants do not challenge the conviction, as such the order of conviction is upheld. Regarding the issue raised here reference can be made to Narinder Singh's case (supra). The Hon'ble Apex Court had laid down the principles which would guide the Courts in exercising the powers under Section 482 IPC. It was held that where conviction is recorded, the matter cannot be compounded but the Court can examine on the point of sentence.

12. The parties have settled all their disputes there has been no dispute in the intervening period. The parties are agreed to bury the hatchet. Keeping the entire conspectus into view and also the injury and the fact that the petitioners have remained in custody from 4 to 6 months, 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 in the fine.

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

**(ANITA CHAUDHRY)
JUDGE**

01.04.2015
'Sunil'