

1. **CRA-S-847-SB of 2004**
Date of Decision: 11.03.2015

BHAN@ SURAJ BHAN AND OTHERSAppellants

VERSUS

STATE OF HARYANARespondent

2. CRA-S-972-SB of 2004

SURESH KUMAR AND OTHERS Appellants

VERSUS

STATE OF HARYANARespondent

3. **CRR No.1269 of 2004**

SUBHASH CHAND **Petitioner**

VERSUS

STATE OF HARYANA AND OTHERSRespondents

4. CRR No.1475 of 2004

VIJAY **Petitioner**

VERSUS

STATE OF HARYANA AND OTHERSRespondents

CORAM: HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. H. S. Gill, Sr. Advocate with
Mr. Vivek Goel, Advocate
for the appellants (in CRA-S-847-SB of 2004)
for the petitioner (in CRR No.1269 of 2004)
for the complainant (in CRA-S-972-SB of 2004)
for the respondents (in CRR No.1475 of 2004).

Mr. Dinesh Trehan, Advocate
for the appellants (in CRA-S-972-SB of 2004).
for the complainant (in CRA-S-847-SB of 2004)

Mr. Dinesh Trehan, Advocate
for the petitioner (in CRR No.1475 of 2004)

Mr. Vivek Saini, AAG, Haryana.

LISA GILL J. (ORAL)

This order shall dispose of **CRA-S-847-SB of 2004** (Bhan @ Suraj Bhan and others Vs. State of Haryana), **CRA-S-972-SB of 2004** (Suresh Kumar and others Vs. State of Haryana), **CRR No.1269 of 2004** (Subhash Chand Vs. State of Haryana and others) and **CRR No.1475 of 2004** (Vijay Vs. State of Haryana and others).

Criminal Appeal No. **CRA-S-847-SB of 2004** and **CRA-S-972-SB of 2004** have been preferred impugning the judgments and orders of even date i.e. 10.04.2004.

CRR No.1269 of 2004 has been filed by Subhash Chand for enhancement of the sentence imposed upon the accused in FIR No.74 dated 03.04.2000 and **CRR No.1475 of 2004** has been filed by Vijay for enhancement of the sentence imposed upon the accused persons in FIR No.73 dated 03.04.2000.

Two FIRs were registered in respect to the same incident which took place on 03.04.2000. FIR No.73 dated 03.04.2000 which is the subject matter of CRA-S-847-SB of 2004 was registered on the basis of statement of complainant-Vijay Kumar. There were 19 accused in this case. Two of them i.e. Tej Pal and Abha Ram died during the pendency of the trial. Out of remaining accused, thirteen (13) were convicted by the learned trial Court under Sections 148, 149, 323, 324, 325, 506 IPC vide impugned judgment and order dated 10.04.2004 and sentenced to undergo rigorous imprisonment vide order of even date in the following manner:

<i>Sr. No</i>	<i>Convicts-accused</i>	<i>Section u/s</i>	<i>Sentence</i>
1	All above-mentioned 13 convict-accused	148 IPC	Rigorous imprisonment for 2 years (with a fine of Rs.1000/-) for each of the convict-accused, in default of payment of fine the defaulting convict-accused to undergo further R.I. for 3 months.
2	----- DO-----	323 IPC read with Section 149 IPC	Rigorous imprisonment for 1 year (with a fine of Rs.500/-) for each of the convict-accused, in default of payment of fine the defaulting convict-accused to undergo further R.I. for 1-1/2 months.
3	-----DO-----	324 IPC read with Section 149 IPC	Rigorous imprisonment for 2 years (with a fine of Rs.1000/-) for each of the convict-accused, in default of payment of fine the defaulting convict-accused to undergo further R.I. for three months.
4	-----DO-----	325 IPC read with Section 149 IPC	Rigorous imprisonment for 4 years (with a fine of Rs.5000/-) for each of the convict-accused, in default of payment of fine the defaulting convict-accused to undergo further R.I. for six months.

The said judgment and order dated 10.04.2004 is the subject matter of Criminal Appeal No.847-SB of 2004. In the above said FIR, there were thirteen (13) injured persons, two of whom i.e. Chaman Devi and Ram Singh are informed to have passed away.

In Criminal Appeal No.972-SB of 2004, all the six accused have been convicted and sentenced to undergo rigorous imprisonment vide impugned judgment and order dated 10.04.2004 as follows;

<i>Sr. No</i>	<i>Convicts-accused</i>	<i>Section u/s</i>	<i>Sentence</i>
1	Suresh Kumar, Gulaba, Satish, Pawan @ Sapatar, Vijay, Mange	148 IPC	Rigorous imprisonment for 2 years (with a fine of Rs.1000/-) for each of the convict-accused, in default of payment of fine the defaulting convict-accused to undergo further rigorous imprisonment for 3 months.
2	----- DO-----	323 IPC read with Section 149 IPC	Rigorous imprisonment for 1 year (with a fine of Rs.500/-) for each of the convict-accused, in default of payment of fine the defaulting convict-accused to undergo further R.O. For 1-1/2 months.
3	-----DO-----	325 IPC read with Section 149 IPC	Rigorous imprisonment for 4 year (with a fine of Rs.5000/-) for each of the convict-accused, in default of payment of fine the defaulting convict-accused to undergo further R.I. for six months.
4	-----DO-----	427 IPC read with Section 149 IPC	Rigorous imprisonment for 1 year (with a fine of Rs.500/-) for each of the convict-accused, in default of payment of fine the defaulting convict-accused to undergo further R.I. For 1-1/2 months.
5	-----DO-----	353 IPC read with Section 149 IPC	Rigorous imprisonment for 1 year (with a fine of Rs.500/-) for each of the convict-accused, in default of payment of fine the defaulting convict-accused to undergo further R.I. For 1-1/2 months.

FIR No.74 dated 03.04.2000 which arises from the same incident is the subject matter of Criminal Appeal No.972-SB of 2004. There are two injured persons in this case i.e. Subhash Chand and Gaje Singh.

In the year 2006, a settlement was arrived at between the parties. Applications were moved in both the cases for placing on record the compromise effected between the parties with a further prayer for disposal of the appeals, in view of the compromise. CRM-13318 of 2006 was moved in Criminal Appeals No.847-SB of 2004 and CRM No.15590 of 2006 was moved in Criminal Appeal No.972-SB of 2004. The said applications were directed to be taken up with the main case at the time of final hearing.

Learned counsel for the appellants in both the appeals submit that in view of the settlement arrived at between the parties, they would not address on the merits of the appeal but pray that the sentence imposed upon all the appellants be ordered to that already undergone by them. Fresh affidavits of all the injured persons have been produced in Court today which are taken on record subject to just exceptions. In Criminal Appeal No.847 of 2004, affidavit of injured Mange Ram, Pawan Kumar, Om Pal, Taro Devi, Phoolmati, Satpal, Ajay Kumar, Paltu, Vinod Kumar, Satish Kumar, Sukhwinder Singh and Legal Representatives of Chaman Devi namely Tej Pal and RajPal and Pawan Kumar as well as Legal Representative of Ram Singh i.e., Sanjiv Kumar are filed in Court today. It is averred by all the above that in view of the settlement arrived at between the parties they do not wish to pursue the matter.

In Criminal Appeal No.972-SB of 2004, both the injured Subhash Chand and Gaje Singh have filed their affidavits to the same effect that they do not wish to continue proceedings against the accused. Settlement arrived at between the parties in the year 2006 is on record of both the appeals.

Learned counsel for the State affirms that there is no minimum sentence prescribed for the offences for which the appellants have been convicted in both the cases.

Learned counsel for the appellants submit that there is no other case pending against the appellants. All the appellants as well as the injured belong to the same area and they wish to live in peace and harmony putting an end to the acrimony between them. There has been no untoward incident since the year 2000 between the parties.

Keeping in view the facts and circumstances of the case, the matter having been settled between the parties as they wish to reside peacefully after burying the hatchet and the fact that there has been no untoward incident since the year 2000 between them, it is in the interest of justice to reduce the sentence imposed upon the appellants to that of having already undergone by them. Fine imposed shall remain the same.

Consequently, while upholding the conviction of the appellants, both the appeals are dismissed with the modification as above in the sentence imposed upon the appellants.

In view of the settlement arrived at between the parties, learned counsel for the petitioner in Criminal Revision No.1269 of 2004 as well as Criminal Revision No.1475 of 2004 pray for permission to withdraw the said Revision petitions.

Criminal Revision No.1269 of 2004 and Criminal Revision No.1475 of 2004 are dismissed as withdrawn.

(LISA GILL)
JUDGE

March 11, 2015
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