

CRA-S-383-SB of 2010

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

CRA-S-383-SB of 2010 (O&M)

Date of decision: 08.07.2015

Gurnam Singh

....Appellant

Versus

State of Punjab

....Respondentt

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: - Mr. Anterpreet Singh, Advocate, for the appellant.

Mr. S.S. Chandumajra, DAG, Punjab.

PARAMJEET SINGH, J. (ORAL)

Crl. Misc. No.9518 of 2015

After hearing learned counsel for the parties and for the reasons mentioned in the Crl. Misc. application, same is allowed.

Mandeep Singh son of Avtar Singh is impleaded as respondent No.2.

Registry to make necessary correction in the memo of parties.

Crl. Appeal No. S-383-SB of 2010

Challenge in this appeal is to the judgment of conviction dated 06.01.2010 and order of sentence dated 07.01.2010 passed by learned Additional Sessions Judge, Jalandhar, whereby appellant has been convicted and sentenced as under: -

<i>“U/s</i>	<i>Imprisonment & fine</i>	<i>In default</i>
<i>307/34 IPC</i>	<i>R.I. for 5 years & ₹ 5,000/-</i>	<i>R.I. for 6 months</i>
<i>326/34 IPC</i>	<i>R.I. for 3 years</i>	<i>R.I. for 3 months</i>

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& ₹ 2,000/-

324/34 IPC

*R.I. for 1½ year
& ₹ 2,000/-*

R.I. for 3 months”

All the sentences have been ordered to run concurrently.

I need not dilate upon the facts of this case in detail, however, facts relevant for the disposal of this appeal are to the effect that on 08.11.2004 complainant Avtar Singh along with his son Mandeep Singh was present in village Nagar, in connection with personal work. His son Mandeep Singh went to the shop of Madan Haircutting in order to get his hair cut and in the meantime, the complainant started purchasing pipes from nearby shop. At about 10.00 a.m. Gurinder Singh, Bhupinder Singh and Sukhdeep Singh armed with kirpans along with two unidentified persons, later on identified as Baljit Singh and appellant Gurnam Singh armed with darters entered into the aforesaid shop of the barber. Appellant and Sukhdeep Singh started giving darter blows to the son of the complainant. He was dragged out of the shop and Bhupinder Singh, Gurinder Singh and Sukhdev Singh started giving kirpan blows on the person of Mandeep Songh son of the complainant. When complainant tried to rescue his son from their clutches, they threw the complainant on the ground and threatened that they will teach a lesson to the son of the complainant. All the accused gave injuries to Mandeep Singh on different parts of his body with their respective weapons. Earlier some dispute took place between the son of the complainant and the accused, the same was got compromised by the respectables. Son of

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the complainant was taken to Civil Hospital, Phillaur, from where he was referred to DMC, Ludhiana. The injured was got medically examined. Statements of PWs were recorded and on completion of the investigation, challan against all the accused was present in the Court of Illaqa Magistrate, who after supplying the copies of the documents as referred to in Section 207 Cr.P.C., committed the case to the Court of Sessions.

In order to prove its case, prosecution examined Mandeep Singh as PW1, complainant Avtar Singh as PW2, Dr. Gautam Biswas as PW3, ASI Kewal Singh as PW4, HC Harjinder Singh as PW5 and HC Simarjit Singh as PW6.

Statements of the accused was recorded under Section 313 Cr.P.C. He denied allegations of the prosecution and pleaded his false implication. In defence he led no evidence.

On appreciation of evidence appellant was sentenced and convicted as aforesaid by learned Additional Sessions Judge, Jalandhar, vide judgment of conviction dated 06.01.2010 and order of sentence dated 07.01.2010. Hence, this appeal.

I have heard the learned counsel for the parties and perused the record.

Learned counsel for the appellant states that he is not pressing this appeal on merit and is not challenging the conviction on merit. He is only aggrieved against the sentence part. However, he prays that the sentence of the appellant be suitably reduced as this criminal trial is

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hanging on his head like damocle's sword for the last 11 years and it should be a sufficient mitigating circumstance to treat him leniently. Learned counsel for the appellant has further submitted that the FIR pertains to the year 2004 and since then a period of about 11 years has elapsed. The appellant has suffered the ordeal for long period. Learned counsel for the appellant further submit that appellant and the complainant are the co-villagers. Compromise has taken place between the parties and complainant has also been suitably compensated. Further the learned counsel for the appellant relies upon the judgment of Hon'ble Supreme Court in *Ishwar Singh v. State of Madhya Pradesh, 2009(1) R.C.R.(Criminal) 1*.

Learned counsel for the State vehemently opposed the reduction in sentence.

Ancient penological approach was custodial measure to curb crime. But in modern days, penological approach should be balanced keeping in view the needs of the community and interests of the accused: such as compensation to the victims, release on admonition, probation etc. These are being adopted to reform the criminal convicts. The object of criminal justice system is to reform the offenders and to make them see and follow the right path. Otherwise also jails are often overcrowded.

In view of the arguments advanced by learned counsel for the appellant, which have been noted above, this Court is of the view that no useful purpose will be served by sending the appellant behind the bars

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further as appellant has faced ordeal for a long period and parties have compromised the matter. It is a fit case wherein sentence awarded to the appellant can be reduced to already undergone. Ordered accordingly. The impugned judgment of conviction and order of sentence, including default clause, stand affirmed with aforesaid modification. It goes without saying that if the amount of fine is not deposited, the appellant will serve the remaining part of sentence.

Appellant is stated to be on bail. With the observations made above, present appeal is disposed of.

(Paramjeet Singh)
Judge

July 08, 2015
R.S.