

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(i)

**Crl. Appeal No.S-4457-SB of 2014
Date of Decision: November 18, 2015**

Daljeet Singh and others

...Appellants

VERSUS

State of Punjab

...Respondent

(ii)

Crl. Revision No.3925 of 2014

Harinder Singh

...Petitioner

VERSUS

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

Present: Mr.Ashok Giri, Advocate
for the appellants (in CRA No.S-4457-SB of 2014)
and for respondents No.2 to 4 (in CRR No.3925 of 2014).

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

Mr.Preetinder Singh Ahluwalia, Advocate
for the complainant (in CRA No.S-4457-SB of 2014) and
for the revision-petitioner (in CRR No.3925 of 2014).

INDERJIT SINGH, J.

This judgment shall dispose of two connected cases i.e.

CRA No.S-4457-SB of 2014 and CRR No.3925 of 2014 arising out of

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the same judgment of conviction and order of sentence dated 26.09.2014 passed by learned Addl. Sessions Judge, SAS Nagar Mohali, whereby the appellants Daljeet Singh and Bahadur Singh were convicted under Section 323 read with Section 34 IPC and appellants Kamaljit Singh and Jaswinder Singh were convicted under Section 323 IPC and they all were sentence to undergo rigorous imprisonment for a period of two years each and to pay a fine of ₹ 500/- each under and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month each. Appellant Daljeet Singh was further convicted and sentenced to undergo rigorous imprisonment for a period of five years each and to pay a fine of ₹2000/- and in default of payment of fine to undergo rigorous imprisonment for a period of six months under Section 307 IPC and to further undergo rigorous imprisonment for a period of three years and to pay fine of ₹1000/- and in default of payment of fine to undergo rigorous imprisonment for a period of one month under Section 27 of the Arms Act. Appellants Bahadur Singh, Kamaljit Singh and Jaswinder Singh were also convicted and sentenced to undergo rigorous imprisonment for a period of five years each and to pay a fine of ₹2000/- each under Section 307 read with Section 34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months each. All the sentences were ordered to run concurrently. However, co-accused Gurjit Singh, Paramjit Singh and Nonu @ Gurinder Singh were acquitted of the charges framed against them.

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Revision-petitioner Harinder Singh has filed CRR No.3925 of 2014 for enhancement of the sentence imposed upon the accused-respondents and also for the compensation amount.

The brief facts as per prosecution case are that on 14.11.2012 at about 1.40 A.M., Harinder Singh injured got recorded his statement that he is an operator on the excavator machine. Being festival of Diwali, he accompanied by his brother Ranjit Singh, sister Sukhjit Kaur and mother Surinder Kaur had gone to village Gurudwara Sahib to pay obeisance and also to light the lamps. At about 7.30 P.M., when they were about to reach at Gurudwara Sahib, he saw Daljeet Singh carrying a 12 bore rifle, his father Bahadur Singh carrying a *danda*, Kamaljit Singh carrying a rod, Gurjit Singh carrying *gandasi*, Paramjit Singh and Nona carrying rods accompanied by 2-03 unidentified persons. Jaswinder Singh grandson of Bahadur Singh was seen carrying a rod. After seeing the above-said persons, they turned towards the gate of Gurudwara Sahib, upon which Bahadur Singh raised *lalkara* that they be taught a lesson for scuffling with them, upon which said persons waylaid them. Paramjit Singh opened attack with *danda*, which landed on the arm of his mother and when Ranjit Singh came forward, Jaswinder Singh attacked him with a rod which landed near his ear. Bahadur Singh again raised *lalkara* asking Daljeet Singh to fire, upon which Daljeet Singh fired from his 12 bore rifle with an intention to kill him but his sister covered Ranjit Singh. As a result, the fire shot hit her right leg and she fell down. Daljeet Singh again fired towards him, which hit his right leg. He raised alarm and

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came forward, upon which Kamaljit Singh attacked him with a rod which landed on his forehead and he fell down. The unidentified assailants abused them and issued threats. Father of the complainant along with uncle and many other persons reached the spot, upon which all the accused ran away from the spot with their respective weapons. On the basis of this complaint, FIR was registered. Accused were arrested. Weapons of offence were recovered. Statements of witnesses were recorded. After necessary investigation challan was presented against the accused-appellants except Jaswinder Singh.

On presentation of challan against accused-appellants, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, accused-appellants were charge-sheeted under Sections 307, 323, 324, 341, 148, 149 IPC and Section 27 of the Arms Act, to which they pleaded not guilty and claimed trial.

During the course of the trial, an application under Section 319 Cr.P.C. seeking summoning of Jaswinder Singh was filed and it was allowed and he was charge-sheeted accordingly, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Ranjit Singh, injured, who mainly deposed as per prosecution version. He also stated that motive behind the occurrence was that a false criminal case was filed by the accused against them, in which they were acquitted. PW-2 Ranbir Singh deposed regarding preparing of

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scaled site plan Ex.PW2/A. PW-3 Harinder Singh, complainant mainly deposed regarding prosecution version. PW-4 Dr.Tarsem Singh, Medical Officer, mainly deposed that he medico legally examined Ranjit Singh on 13.11.2012 and found following injuries:-

1. *A circular wound 3 cm over middle of right leg. Bone pieces were protruding out in the antero medial part. Fresh bleeding was present. Abnormal mobility was present. Advised x-ray and Ortho opinion.*
2. *A lacerated wound 4 x 3 cm present on the posterior part of leg in the middle of left leg. Advised x-ray leg and ortho opinion.*
3. *Lacerated wound 4 cm x 1 cm bone deep was present on the vertex just towards left side. Bleeding was present. Advised x-ray skull.*
4. *Incised wound 2 cm x .2 cm present over left pinna. Advised x-ray.*

He opined that kind of weapon for injury No.1 and 2 was probably gun shot, injury No.3-was blunt and injury No.4-was sharp. He also medico legally examined Sukhjit Kaur on the same day and found following injuries:-

1. *2 wounds over right knee one measuring about 2 cm x 1.5 cm over the right patella depth of wound extending towards postero medially causing another wound measuring 4.5 cm x 3.5 cm laceration was present. Bleeding was present. Advised x-ray and Ortho opinion.*

He further deposed that on the same day, he also medico legally examined Harinder Singh and found following injury:-

1. *A lacerated wound 4 x 1 cm Bone deep was present over vertex of scalp in the anterior half. Fresh bleeding was present. Advised x-ray skull and opinion of Surgeon.*

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He brought the MLRs and pictorial diagrams of the all injured and proved the same. PW-5 Dr.Prateek, Senior Resident, mainly deposed that injured Ranjit Singh was admitted in PGI with fracture both bone leg right open grade (iii). He was operated for debridement, external fixator and fasciocutaneous flap. He opined the nature of injury as grievous. He further deposed that injured was discharged on 17.11.2012 and proved the treatment record. PW-6 Bhupinder Kaur, Clerk, DC Office proved the arm licence in the name of Daljeet Singh and deposed that double barrel gun bearing No.21981-09 is entered in the above-said licence, which was valid upto 17.02.2013. PW-7 Sukhjit Kaur, injured, also deposed as per prosecution version. PW-8 Head Constable Kewal Krishan and PW-9 Head Constable Jaswant Singh, who were with the Investigating Officer, deposed regarding the investigation. PW-10 ASI Tarsem Singh, Investigating Officer, deposed regarding investigation conducted by him in the present case. PW-11 Palwinder Kumar and PW-12 Constable Jagtar Singh, are the formal witnesses, who tendered into evidence their affidavits Ex.PW11/A and Ex.PW12/A respectively.

At the close of prosecution evidence, the accused-appellants were examined under Section 313 Cr.P.C. and they denied the correctness of the evidence and pleaded themselves as innocent. They further pleaded that complainant party had attacked at their house and caused injury to Bahadur Singh by entering in their house. In self defence, firstly Daljeet Singh fired in the air and when

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assailants did not stop, then he fired on the ground, which hit to injured, who had collected there. He had no intention to cause injuries to anybody and fired only in self defence.

No witness was examined in defence.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellants, as stated above.

At the time of arguments, learned counsel for the appellants argued that case of the prosecution has not been proved beyond reasonable doubt. The offence under Section 307 IPC is not made out as the rifle was pointed towards the ground and fire was shot with no intention to cause any injury. He next argued that the complainant party has attacked the accused-appellants and fire arm was shot in self defence. Learned counsel for the appellants, therefore, argued that there being merit in the appeal, the same should be allowed and accused-appellants should be acquitted.

On the other hand, learned State counsel as well as learned counsel for the complainant-revision petitioner argued that no defence evidence has been led by the accused to prove self defence. If the plea of self defence is taken, then it is for the accused to prove it. They further argued that the occurrence, date and time of the occurrence has not been contested. They next argued that as no evidence has been led showing any injury to the complainant side, neither any cross-version or complaint has been filed nor any DW has been examined, therefore, the defence of the accused cannot be believed. The accused has not fired on the ground, rather, two

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persons have been injured i.e. Ranjit Singh and Sukhjot Kaur, by fire arm, which shows that version of the prosecution is correct. They, therefore, argued that there being no merit in the appeal, the same should be dismissed.

I have heard learned counsel for the parties as well learned State counsel and have gone through the record.

From the record, I find that no material contradictions or improvements have been pointed out in the statements of the PWs at the time of arguments by learned counsel for the appellants. PWs have consistently deposed regarding the prosecution version. There is nothing in the cross-examination of the PWs, which may make their statements unreliable. All the injured PWs i.e. PW-1 Ranjit Singh, PW-3 Harinder Singh and PW-7 Sukhjot Kaur have deposed as per prosecution version. The injuries stated by them have been duly supported and corroborated by the medical evidence. A suggestion was given to PW-1 that they attacked the house of the accused, which has been denied. Another suggestion was put that Bahadur Singh was also admitted in the hospital on that day but no evidence was produced regarding Bahadur Singh to prove as to what type of injuries he has received. Even no record has been called regarding the injuries on the person of Bahadur Singh from the doctor. There is nothing on the record that Bahadur Singh received any injury etc. The suggestion is also denied that Daljeet Singh has fired in self-defence when the complainant party attacked the house of the accused. In the chief-examination, PW-1 Ranjit Singh has deposed that accused

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Bahadur Singh raised *lalkara* to Daljeet Singh to open fire upon them and then Daljeet Singh fired gun shot with intention to kill towards him but his sister came forward and gun shot injury was inflicted upon right leg of his sister Sukhjit Kaur. This witness has also stated that accused Daljeet Singh again fired with intention to kill him which hit on his right leg, which means that Daljeet Singh fired two shots, one hit Sukhjit Kaur and another Ranjit Singh. In no way, it can be held that there was no intention to kill. There is also nothing on the record to show that the shots were fired on the ground. Rather, the record shows that shots were fired by pointing the rifle towards Ranjit Singh.

The weapons of offence have been recovered. The injuries have been duly corroborated by medical evidence. The defence taken by the accused regarding self defence has not been proved by leading any evidence. Only suggestions were given or plea has been taken in the statement recorded under Section 313 Cr.P.C. There is also nothing on the record that any of the appellant has received any injury. The version that complainant side attacked the house of the accused, is also not supported by any evidence. No one has appeared in defence to prove the defence version. Further, I find that there is nothing on the record to show that a false case has been planted or the accused-appellants have been falsely implicated in this case.

Therefore, from the above discussion, I find that the prosecution has duly proved its case by leading cogent evidence beyond any reasonable doubt. The judgment of conviction dated

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26.09.2014 passed by learned Addl. Sessions Judge, SAS Nagar Mohali is correct, as per law and the same is upheld.

Learned counsel for the appellants has prayed for reduction of the sentence imposed upon the appellants. On the other hand, learned counsel for the revision petitioner prayed for enhancement of the sentence of the appellants and also for awarding compensation.

The perusal of the record shows that Bahadur Singh was stated to be armed with *danda* only and has not caused any injury. Kamaljit Singh was stated to be armed iron rod and he has given simple injury on the forehead. Jaswinder Singh gave injury to Ranjit Singh on the ear. The injuries with gun shots have been given by Daljeet Singh.

As regarding Daljeet Singh, he has been convicted and sentenced to undergo rigorous imprisonment for a period of five years and to pay fine of ₹2000/- under Section 307 IPC and also convicted and sentenced under Section 27 of the Arms Act to undergo rigorous imprisonment for a period of three years along with fine and default sentence. No ground is made out to reduce this sentence. Similarly, no ground for enhancement is also made out as adequate sentence has been awarded by the trial court. However, the trial Court has not awarded any compensation to the injured for the injuries suffered by them. Therefore, Daljeet Singh is directed to pay compensation of ₹20,000/- to all the three injured.

As regarding Bahadur Singh, Kamaljit Singh and

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Jaswinder Singh, they have caused only simple injuries with blunt weapon and they have been sentenced as stated above.

From the record, I find that Bahadur Singh, Kamaljit Singh and Jaswinder Singh appellants have already undergone sufficient sentence of more than one year after the judgment of conviction passed by learned Addl. Sessions Judge, SAS Nagar Mohali on 26.09.2014. Therefore, their sentence is reduced to the sentence already undergone by them. However, the sentence of fine and in default sentence, shall remain the same. Further, they are directed to deposit compensation of ₹10,000/- each. The total compensation, which comes to ₹50,000/-, is ordered to be disbursed to all the three injured in equal share.

Resultantly, CRA No.S-4457 of 2014 stands dismissed qua accused-appellant Daljeet Singh and it stands partly allowed qua accused-appellants Bahadur Singh, Kamaljit Singh and Jaswinder Singh with the above-said modification in the sentence. CRR No.3925 of 2014 filed by complainant Harinder Singh stands partly allowed with the compensation as awarded above.

Appellants Bahadur Singh, Kamaljit Singh and Jaswinder Singh be set at liberty forthwith, if their custody is not required in connection with any other case, subject to payment of fine, if already not paid.

As appellant Daljeet Singh is on bail, his bail bonds stand cancelled and he is directed to surrender himself before the jail authorities immediately for completing remainder of sentence, failing

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which the concerned authority shall proceed against him in
accordance with law.

November 18, 2015
Vgulati

(INDERJIT SINGH)
JUDGE