

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

**Criminal Appeal S-1794-SB of 2002 (O&M)
Date of Decision: November 18, 2015**

Kulwant Singh and othersAppellants

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Amit Verma, Advocate
for the appellants.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

Mr. N.S.Sodhi, Advocate
for the complainant.

T.P.S.MANN, J. (Oral)

The appellants, namely, Kulwant Singh, Amarjit Singh, Gango Bai, Jeeto Bai, Harbans Singh and Sher Singh have filed the present appeal for challenging the judgment and order dated 11.10.2002 passed by the learned Additional Sessions Judge, Ferozepur, whereby, they stand convicted and sentenced, as mentioned below:-

- i. All the appellants were convicted under Section 148 IPC and sentenced to undergo rigorous imprisonment for one year each.

ii. Appellants Kulwant Singh and Amarjit Singh were convicted under Section 325 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo rigorous imprisonment for three months whereas appellants Gango Bai, Jeeto Bai, Harbans Singh and Sher Singh were convicted under Sections 325/149 IPC and sentenced to undergo rigorous imprisonment for one and half years and to pay a fine of Rs.200/- each and in default of payment of fine, to further undergo rigorous imprisonment for two months.

iii. Appellant Sher Singh was convicted under Section 323 IPC while appellants Kulwant Singh, Amarjit Singh, Gango Bai, Jeeto Bai and Harbans Singh were convicted under Sections 323/149 IPC and sentenced to undergo rigorous imprisonment for six months each.

All the sentences were ordered to run concurrently.

The period of detention suffered by the appellants during investigation and trial was ordered to be set off against the sentences awarded to them.

The case of the prosecution, in nutshell, is that appellants along with Mohinder Singh were tried for committing offences punishable under Sections 148/364/325/323/149 IPC on the allegations that on 18.3.1995 at about 10.30 a.m., they had caused injuries to Gurnam Singh and his son Kashmir Singh. The proceedings were initiated against the appellants and Mohinder Singh on the statement made by injured Gurnam Singh. During the trial of the case, Mohinder Singh died and, accordingly, proceedings against him were dropped. The trial Court acquitted the appellants of the offences under Section 364 IPC. However, they were convicted and sentenced for committing offences under Sections 148, 325/323/149 IPC, as mentioned above.

It may be worthwhile to mention here that during the pendency of the appeal Gango Bai, Jeeto Bai and Harbans Singh have expired. In the affidavit executed by Inspector Balkar Singh, SHO, Police Station Sadar, Jalalabad (w), it has clearly been stated that the aforementioned three appellants have expired. As aforementioned three appellants had already deposited the fine imposed upon their conviction and sentences by the trial Court, the appeal filed by them was mainly against their sentences of imprisonment. However, on account of the death of the aforementioned three appellants, this Court has no other option but to dispose of their appeal as having abated.

This Court need not go further into the facts of the case on account of the fact that during the pendency of the appeal, surviving appellants, namely, Kulwant Singh, Amarjit Singh and Sher Singh amicably settled the matter with the complainant party. In support of the said fact, the appellants brought on record compromise deed dated 25.9.2014 by filing an application under Section 320(5) Cr.P.C. and for allowing them to compound the offences. The compromise deed (Annexure P-1) was duly signed by Gurnam Singh and Kashmir Singh, the two injured persons in the case.

When the miscellaneous application filed by the appellants under Section 320 (5) Cr.P.C. for allowing them to compound the offences came up for hearing on 12.12.2014, the parties were directed to get their statements recorded before the Ilaqa Magistrate. Pursuant to the same, both the parties appeared before learned Judicial Magistrate 1st Class, Jalalabad (w) on 23.1.2015 and suffered statements that the matter stood compromised with the intervention of the respectables and without any coercion or pressure from any side.

Not all the offences are compoundable in nature. However, the factum of compromise can be taken as a mitigating circumstance in order to determine the quantum of sentence which is to be imposed upon the convicts.

As per the prosecution injured Gurnam Singh had received three injuries on his legs, which were grievous in nature and caused by blunt weapon whereas injured Kashmir Singh was found to have sustained two injuries on his person, which were simple in nature.

As per the custody certificates already placed on record by the State counsel, out of the sentence of two years imposed upon them, appellants Kulwant Singh and Amarjit Singh had undergone a period of two months during the trial of the case whereas appellant-Sher Singh had undergone about one week.

In view of the fact that the matter between the parties stands amicably resolved and that the appellants have been facing the agony of criminal prosecution for the last more than twenty years, this Court is of the considered view that no useful purpose will be served by sending three appellants, namely, Kulwant Singh, Amarjit Singh and Sher Singh behind the bars, once again, to undergo the remaining sentences of imprisonment imposed upon them. Ends of justice would be amply met if the substantive sentences of the surviving appellants are reduced to the one already under by them.

Resultantly, the appeal of Gango Bai, Jeeto Bai and Harbans Singh is disposed of having abated. The conviction of

appellants Kulwant Singh, Amarjit Singh and Sher Singh is upheld. However, their substantive sentences of imprisonment are reduced to the one already undergone by them. The sentences of fine, alongwith their default clauses, are maintained.

The appeal of Kulwant Singh, Amarjit Singh and Sher Singh is, accordingly, disposed of.

November 18, 2015
amit rana

(T.P.S. MANN)
JUDGE