

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

**Criminal Appeal D-803-DB of 2009
Date of Decision: September 14, 2016**

Fateh Singh @ Fatta

.....Appellant

Versus

State of Haryana

.... Respondent

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

Present : Mr. Sudhir Sharma, Advocate
for the appellant.

Mr. M.S.Sidhu, Addl. Advocate General, Haryana.

Mr. Vinod Ghai, Senior Advocate with
Mr. Simrandeep Singh Sandhu, Advocate
for the complainant.

T.P.S.MANN, J.

Appellant Fateh Singh @ Fatta, his brother Krishan Kumar and their father Baaj Singh were tried for committing offences punishable under Section 302 read with Section 34 of the Indian Penal Code on the allegations that on 20.4.2005 at about 8.30 p.m. and in the area of village Kuttabadh, they all in furtherance of their common intention committed the murder of Karnail Singh by intentionally causing his death. Vide judgment

and order 31.8.2009/2.9.2009, learned Additional Sessions Judge, Sirsa acquitted Krishan Kumar and Baaj Singh of the charges against them. The appellant, namely, Fateh Singh @ Fatta was, however, convicted under Section 302 IPC and sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo imprisonment for six months. He was also directed to pay a sum of Rs.50,000/-, as compensation to the legal heirs of deceased Karnail Singh and in default thereof, to undergo further imprisonment for one year.

Aggrieved of his conviction and sentence, the appellant filed the present appeal. In order to challenge the acquittal of Krishan Kumar, accused, the State of Haryana filed Criminal Appeal D-473-DB of 2010. Complainant Ranjit Singh also preferred Criminal Revision 590 of 2010 for challenging the acquittal of Krishan Kumar and Baaj Singh of the charges against them and for enhancement of the sentence of Fateh Singh @ Fatta and grant of adequate compensation.

As the two appeals and the revision petition arise out of the impugned judgment passed by the learned trial Court, they are being decided by a common judgment.

According to the prosecution, complainant Ranjit

Singh suffered statement Ex.P8 before Sub-Inspector Hari Chand at General Hospital, Sirsa on 21.4.2005 at 4.30 a.m. He stated therein that he was resident of village Kuttabadh and an agriculturist by profession. He had one brother, namely, Jaswant Singh @ Jassa, who was elder to him. Both of them resided with their father Karnail Singh. Fateh Singh @ Fatta resident of their village had been keeping buffalos and grazing them in the fields here and there. On 20.4.2005, Fateh Singh @ Fatta allowed his buffalos to enter the fields of the complainant party. At that time, Jaswant Singh @ Jassa was in the fields. A quarrel took place between Fateh Singh @ Fatta and Jaswant Singh @ Jassa regarding the former allowing his buffalos to enter the fields of the latter. Both of them gave slaps and fisticuffs to each other. After extending a threat to Jaswant Singh @ Jassa to see him again, Fateh Singh @ Fatta came to the village with the buffalos. The complainant's brother Jaswant Singh @ Jassa after coming to the house narrated the aforesaid incident to his father Karnail Singh. Upon this, the complainant and his father Karnail Singh went to the house of Baaj Singh at about 8.30 p.m. to lodge a protest. Baaj Singh, Krishan Kumar and Fateh Singh @ Fatta were present on the roof top of their house. Karnail Singh told Baaj Singh that his son Fateh Singh @ Fatta had damaged his crop by allowing his buffalos to enter the fields besides giving fisticuffs to

his son Jaswant Singh @ Jassa. Baaj Singh asked complainant Ranjit Singh and his father Karnail Singh to come to the roof top where they would settle the dispute. Accordingly, the complainant and his father Karnail Singh went to the roof top. Karnail Singh was ahead and Ranjit Singh was following him. As soon as Karnail Singh reached near the accused, Baaj Singh raised the lalkara asking Fateh Singh @ Fatta as to what he was looking for and he should teach him a lesson for lodging a protest. Krishan Kumar caught hold of Karnail Singh from his right hand whereas Fateh Singh @ Fatta gave a gandasi blow on the head of Karnail Singh, who fell down. Out of fear, complainant Ranjit Singh ran away and raised an alarm in the street, which attracted a number of villagers. Complainant's brother Jaswant Singh @ Jassa also arrived at the spot. On seeing the people gathering there, the accused managed to escape. The complainant and his brother Jaswant Singh @ Jassa put their father Karnail Singh in a jeep and brought him to General Hospital, Sirsa for treatment. The doctor treated Karnail Singh and also medico-legally examined him. On seeing the condition of Karnail Singh to be precarious, the doctor referred him to P.G.I., Rohtak. However, when the complainant and others were taking Karnail Singh to P.G.I., Rohtak and had covered a distance of about 10 kilometers, Karnail Singh breathed his last. His dead body was then brought

back to General Hospital, Sirsa. The complainant then went to City Sirsa for making telephone calls. After he returned, he came across SI Hari Chand, to whom, he made a statement.

It is also the case of the prosecution that on the basis of statement Ex.P8, FIR Ex.P10 was registered against the three accused at Police Station Rania on 21.4.2005 at 5.40 a.m. by Sub-Inspector Amit Kumar under Sections 302/34 IPC. Special report sent through Constable Jagdish Chander was received by the Ilaqa Magistrate on 21.4.2005 at 10.30 a.m. Sub-Inspector Hari Chand then conducted inquest proceedings in respect of dead body of Karnail Singh and prepared application Ex.P1 for conducting autopsy on the dead body, for which purpose EHC Piare Lal was deputed. Thereafter, Sub-Inspector Hari Chand along with complainant Ranjit Singh reached the place of occurrence, inspected the same, prepared rough site plan Ex.P23 and got the place of occurrence photographed from a photographer. Blood stained earth, turban, plastic chappal and a shoe were lifted from the place of occurrence. Statements of witnesses were recorded under Section 161 Cr.P.C.

It is also the case of the prosecution that on 23.4.2005, Sub-Inspector Hari Chand again reached village Kuttabadh for further investigation where Fateh Singh @ Fatta was produced before him by one Satnam Singh and was

arrested. Krishan Kumar was also produced on the same day by Satnam Singh and was arrested. On interrogation Fateh Singh @ Fatta suffered disclosure statement Ex.P17 that he had kept concealed the gandasi under a cot in his residential house. In pursuance of the same, he got recovered the gandasi Ex.P18/A, which was taken into possession vide recovery memo Ex.P19. Baaj Singh accused was, however, found innocent during the investigation and, accordingly, final report under Section 173 Cr.P.C. was submitted only in respect of Fateh Singh @ Fatta and Krishan Kumar, accused. After commitment of the case, both of them were charged for the offence under Section 302 read with Section 34 IPC, to which, they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined complainant Ranjit Singh as PW1. In his testimony, he reiterated the prosecution case. An application under Section 319 Cr.P.C. was, thereafter, filed which was allowed and Baaj Singh, accused, who was earlier found innocent, was also summoned as an additional accused. Upon his appearance, the trial Court framed charges under Section 302 read with Section 34 IPC against all the three accused, to which, they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined as

many as thirteen witnesses.

PW1 Dr. Hans Ram Bashir, Medical Officer, Government Hospital, Sirsa testified that on 21.4.2005, he along with Dr. N.K. Mittal conducted autopsy on the dead body of Kranail Singh and found the following injuries:-

“A 'C' shaped incised wound of size 11 cms x 3.5 cms across the parietal region of skull almost horizontally placed deep upto cranial cavity, wound being placed 6 cms anterior to vertex. Convex part of the 'C' shaped wound was facing towards occipital region. Brain matter was coming out from the wound. Clotted blood was present all over the wound. Subcutaneous infiltration of blood was present on dissection. On further dissection, the underlying parietal bones on both sides were cut. Brain matter was lacerated. Intra cranial haemorrhage was present.”

The cause of death in their opinion was due to head injury and its complications, which were ante-mortem in nature and sufficient to cause death in ordinary course of nature. The time between injury and death was variable and between death and postmortem was within twenty hours.

PW2 Sub-Inspector Amit Kumar deposed that he recorded formal FIR Ex.P10 on receipt of ruqa in the form of statement Ex.P8 made by Sub-Inspector Hari Chand.

PW3 Mohan Lal, Draftsman, deposed about preparing scaled site plan Ex.P12 of the place of occurrence on the pointing of complainant Ranjit Singh.

PW4 Constable Mahavir Singh and PW5 Head Constable Dharamvir Singh tendered in evidence their affidavits Ex.P13 and Ex.P14, respectively.

PW6 Ranjit Singh, once again, deposed on the same and similar lines as was his stand in statement Ex.P8, which he had made before Sub-Inspector Hari Chand, on the basis of which, FIR Ex.P10 was recorded. He also deposed about accompanying the police to the place of occurrence and pointing the spot from where blood stained earth, one turban of deceased Karnail Singh, which had cut at two places and stained with blood, one Hawaii Chappal and one Jutti, which were taken into possession vide recovery memo Ex.P15.

PW7 Jaswant Singh testified that on 20.4.2005 at about 6.30 p.m., when he was present in his fields, he noticed that cattle had entered in his Barseen field and when he reached there, he lodged a protest with Fateh Singh @ Fatta, as a result of which, an altercation took place. Fateh Singh @ Fatta threatened him with dire consequences. After Fateh Singh @ Fatta left for his house along with cattle, he also returned home

and narrated about the aforementioned incident to his father Karnail Singh and brother Ranjit Singh. Thereafter, Karnail Singh and Ranjit Singh went to the house of Baaj Singh to lodge a protest. He also followed them but when he was at a distance of 4 kanals from the house of Baaj Singh, he heard the noise of his brother Ranjit Singh. He reached the house of Baaj Singh where 10/12 persons had gathered there and his brother Ranjit Singh told him that Baaj Singh had raised a lalkara. Krishan Kumar had caught hold of their father Karnail Singh whereas Fateh Singh @ Fatta had given a gandasi blow on the head of their father. His brother Ranjit Singh also told that Krishan Kumar had run after him and in the process fell down in the staircase and received injuries on his person.

PW8 Assistant Sub-Inspector Rajbir Singh testified about accused Fateh Singh @ Fatta suffering disclosure statement Ex.P17 leading to recovery of gandasi Ex.P18/A, which was taken into possession vide memo Ex.P19.

PW9 Dr. Viresh Bhushan, Medical Officer, General Hospital, Sirsa testified that on 20.4.2005 at about 9.50 p.m., when he was on duty in casualty department, Karnail Singh was brought by his son Ranjit Singh with the alleged history of assault. He medico-legally examined him and found the following injury:-

“An incised wound of the size 11 cm. X 3.5 cm. across the parietal region almost horizontally placed. The underlying bone was cut and brain matter was coming out. There was profuse bleeding. X-ray was advised.”

The injury was caused with sharp edged weapon within the duration of six hours. Injury was kept under observation. After preparing medico-legal report Ex.P20, he sent ruqa Ex.P20/B to the Station House Officer, Police Station City, Sirsa regarding the admission of Karnail Singh. At about 11.45 p.m., the dead body of Karnail Singh was brought back by his attendant. Accordingly, ruqa Ex.P20/C was sent to the Station House Officer, Police Station, City.

PW10 Constable Sohan Lal tendered in evidence his affidavit Ex.P21.

PW11 Constable Jagdish Chander deposed that on 21.4.2005 at about 7.00 a.m., when he was posted in Police Station Rania, three copies of the FIRs in different envelopes were handed over to him by Sub-Inspector Amit Kumar. He handed over the same to the Deputy Superintendent of Police, Ellenabad, the Superintendent of Police, Sirsa and the Ilaqa Magistrate.

PW12 Sub-Inspector Hari Chand deposed about the various steps taken by him during the investigation of the case,

which commenced after he had recorded statement Ex.P8 of complainant Ranjit Singh.

PW13 EHC Ram Kumar tendered in evidence his affidavit Ex.P25.

Before closing its evidence, the prosecution tendered reports Ex.P26 and P27 of the Forensic Science Laboratory.

When examined under Section 313 Cr.P.C. all the three accused claimed to be innocent and falsely involved in the case. Baaj Singh, accused stated that he was found innocent by the police during the investigation and later on summoned by the trial Court on the application of prosecution under Section 319 Cr.P.C. The other two accused, namely, Fateh Singh @ Fatta and Krishan Kumar stated that on 18.4.2005, Krishan Kumar was standing at the canal bridge of village Kuttabadh where Jaswant Singh @ Jassa, Bittu, Pamma and two other persons came there in drunken condition. They told Krishan Kumar that he belonged to a lower caste. Krishan Kumar resisted and there were exchange of abuses and slaps. Fateh Singh @ Fatta came there and after intervening, he separated them. On the next day, Krishan Kumar reported the matter to the police but the police took no action. They further stated that on 20.4.2005 at about 9.30 p.m. Krishan Kumar was sleeping on a bed near the beds of

his wife, father and mother. About 25/30 persons in drunken condition and armed with deadly weapons entered their house. Amarjit Singh and Balkar Singh gave lathi blows to Krishan Kumar, who got up and rushed towards the staircase. When he was on the roof top, all the assailants which included Karnail Singh (since deceased) came there. It was darkness around. They started inflicting injuries to Krishan Kumar. Fateh Singh @ Fatta, who lived in a separate portion of the house reached there. When he tried to save Krishan kumar from those persons, he was also given injuries. Some one out of the assailants gave an injury to Karnail Singh, which accidentally hit on his head. He fell down. The assailants left the place. Karnail Singh was also taken away by his relatives. Police case was got registered by the complainant party in order to save their own skin for the offence committed by all of them. Five of those persons were also challaned by the police as a cross-case under Sections 323/325/452/148/149 IPC. The mother of Fateh Singh @ Fatta and Krishan Kumar had filed a criminal complaint against the complainant party and twenty four persons from the complainant side were summoned.

In their defence, the accused examined two witnesses. DW1 Dr. Ashok Gupta testified that he radiologically examined Fateh Singh @ Fatta and found fracture over base of

proximal phalanx of little finger of left hand.

DW2 Dr. Harish Kumar Goyal, Medical Officer, testified that he examined accused Fateh Singh @ Fatta accused on 21.4.2005 at about 11.05 a.m. in CHC Ellenabad and found the following injuries on his person:-

- “1. Bruise of size 13 cm x 2 cm at the right side of back, vertical in direction, simple caused with blunt weapon.
2. Bruise of size 5 cm x 2 cm oblique above the right shoulder region.
3. Diffuse swelling present at the left arm, tenderness was present. X-ray was advised. This injury was kept under observation and caused by blunt weapon.
4. Diffuse swelling present at the base of littler finger dorsal aspect. Advised X-ray left hand. This injury was kept under observation and caused by blunt weapon.
5. Complaining of pain in left foot medial aspect. No external mark of any injury was seen. Advised X-ray left foot. This injury was kept under observation and caused by blunt weapon.”

The duration of injuries No. 1 to 4 was within twenty four hours and were caused by blunt weapons.

The accused also tendered in defence evidence

attested copy of medico-legal report Ex.D3. As per the same, Krishan Kumar was medico-legally examined by Dr. Viresh Bhushan, Medical Officer, General Hospital, Sirsa on 20.4.2005 at 11.10 p.m. and following injuries were noticed on him:-

- “1. Lacerated wound 4 cm x 0.5 cm on interparietal region obliquely placed across the midline bone deep fresh bleeding.
2. Reddish contusion 3 cm x 3 cm on right arm middle 1/3 lateral surface.
3. Reddish contusion 4 cm x 2 cm on left deltoid region laterally tender.
4. Abraded contusion 4 cm x 1 cm on left forearm middle 1/3 postero medial surface dried blood present over the injury.
5. Complaint of pain in right hand finders. Tenderness present.
6. Reddish contusion 6 cm x 4 cm on left scapular region tender.
7. Reddish contusion 12 cm x 3 cm on right thigh middle 1/3 antero laterally tender.
8. Multiple abrasions all over anterior surface of left leg of different shapes and sizes. Fresh and dried blood present.”

After hearing learned counsel for the parties and on

going through the evidence available on the record, the trial Court came to the conclusion that the involvement of Baaj Singh, accused in the occurrence was doubtful, as he was not armed with any weapon. The only role attributed to him was of raising of lalkara, which is a very weak type of evidence. Further, he was found innocent during the investigation of the case. Accordingly, he deserved benefit of doubt. Similarly, it was held that there was no prearranged plan or prior meeting of minds to open attack upon the complainant party. Further, it was not the case of the prosecution that after catching hold of right hand of the deceased, Krishan Kumar had exhorted his co-accused Fateh Singh @ Fatta to give gandasi blow to the deceased. Therefore, applicability of Section 34 IPC was not made out and Krishan Kumar also deserved benefit of doubt. However, the prosecution case qua Fateh Singh @ Fatta appellant of causing an injury with a gandasa from its sharp side on the head of the deceased, which ultimately proved fatal, stood proved beyond reasonable doubt. Accordingly, he was convicted and sentenced by the trial Court whereas Baaj Singh and Krishan Kumar were acquitted of the charges framed against them.

Having heard learned counsel for the parties, this Court finds that the place of occurrence was the roof top of the house of the accused party. It was the prosecution case itself that

after PW7 Jaswant Singh @ Jassa had returned from the fields and apprised his father Karnail Singh and brother Ranjit Singh about exchanging fisticuffs and slaps with Fateh Singh @ Fatta on account of the latter allowing his buffalos to enter his Barseen field and destroying the crop, both Karnail Singh and Ranjit Singh went to the house of the accused to lodge a protest. Upon this, Baaj Singh asked them to come on the roof top where they would settle the dispute. When Karnail Singh and Ranjit Singh went to the roof top and Karnail Singh was the first one to reach near the accused, lalkara was raised by Baaj Singh exhorting his son Fateh Singh @ Fatta as to what he was looking for and he should teach a lesson to Karnail Singh for lodging a protest. After Krishan Kumar caught hold of Karnail Singh, Fateh Singh @ Fatta gave a gandasi blow on his head. Thus, the place of occurrence is none else but the roof top of the house of the accused party.

According to the prosecution, Fateh Singh @ Fatta, accused had caused a solitary blow with a gandasi on the head of Karnail Singh. Said Karnail Singh was medico-legally examined by PW5 Dr. Viresh Bhushan, Medical Officer, General Hospital, Sirsa on 20.4.2005 at 9.50 p.m. with one injury, incised in nature which was on his head. Soon thereafter, i.e. on 20.4.2005 at 11.10 p.m. Krishan Kumar, accused was also medico-legally

examined by Dr. Viresh Bhushan, who found as many as eight injuries on his person. It is true that seven of those injuries were either contusions or abrasions but injury No. 1 which was a lacerated wound measuring 4 cm x 0.5 cm was on interparietal region. All the injuries excepting Injury No.5 were found to be of probable duration of six hours. Therefore, the possibility of Krishan Kumar, accused suffering various injuries including injury on interparietal region at about 8.30 p.m., at which time, Karnail Singh (since deceased) had received an injury, cannot be ruled out.

Similarly, Fateh Singh @ Fatta, appellant was medico-legally examined on 21.4.2005 at 11.05 a.m. by DW2 Dr. Harish Kumar Goyal, who found two bruises, two swellings and one complaint of pain on his person. DW1 Dr. Ashok Gupta, who had radiologically examined Fateh Singh @ Fatta, found fracture over base of proximal phalanx of little finger of his left hand. The duration of injuries No. 1 to 4 was within twenty four hours. It is true that DW2 Dr. Harish Kumar Goyal, did not rule out the possibility of the injuries on the person of Fateh Singh @ Fatta to have been suffered within six hours and with friendly hand, but that by itself is not sufficient to conclude that Fateh Singh @ Fatta had suffered the injuries at some friendly hands. Further, there was no occasion for Fateh Singh @ Fatta to have

self-suffered the injuries, especially, when his brother Krishan Kumar had received as many as eight injuries on his person including a lacerated wound on his interparietal region. Therefore, this Court has no other option but to hold that both Fateh Singh @ Fatta and Krishan Kumar had received injuries on or about the time, when Karnail Singh (since deceased) had received the injury on his person.

As regards the explanation of the injuries found on the accused, PW6 Ranjit Singh did not utter a single word that he and his father Karnail Singh were armed with any weapon at the time of the occurrence or had caused injuries to Fateh Singh @ Fatta and Krishan Kumar. He also denied the suggestion that due to their attack, Fateh Singh @ Fatta received five injuries on his person or Krishan Kumar received eight injuries on his person. As regards PW7 Jaswant Singh, who according to the prosecution was still at a distance of about four kanals from the house of the accused, when he heard the noise of his brother Ranjit Singh, it has come in its testimony that he was told by his brother Ranjit Singh that Krishan Kumar had run after him, due to which, he fell down in the staircase and received injuries on his person. At the same time, he also testified that in his statement before the police under Section 161 Cr.P.C. he did not state that his brother Ranjit Singh had disclosed to him that Krishan Kumar accused had run

after him and suffered injuries due to a fall in the staircase. He also denied the suggestion that he along with more than twenty five persons had attacked Krishan Kumar and, accordingly, Krishan Kumar suffered injuries and when Fateh Singh @ Fatta came from his house to save his brother, he also suffered injuries at their hands.

It is admitted case of both PW6 Ranjit Singh and PW7 Jaswant Singh that they along with others stood challaned in the cross-case of this occurrence and facing trial. The only plea of PW6 Ranjit Singh was that it was a false case.

From the above, it is clearly made out that the prosecution has not explained the injuries sustained by the accused at or about the time of the occurrence or in the course of altercation. The Hon'ble Supreme Court in case of **Lakshmi Singh and others Vs. State of Bihar** AIR 1976 SC 2263 while dealing with a similar issue of non-explanation of the injuries sustained by the accused in a murder case held it to be a very important circumstance, from which, the Court could draw any of the following inferences:-

“(1) That the prosecution has suppressed the genesis and the origin of the occurrence and has thus not presented the true version;

(2) that the witnesses who have denied the presence of

the injuries on the person of the accused are lying on a most material point and therefore their evidence is unreliable;

(3) that in case there is a defence version which explains the injuries on the person of the accused it is rendered probable so as to throw doubt on the prosecution case.

The omission on the part of the prosecution to explain the injuries on the person of the accused assumes much greater importance where the evidence consists of interested or inimical witnesses or where the defence gives a version which competes in probability with that of the prosecution one. In the instant case, when it is held, as it must be, that the appellant Dasrath Singh received serious injuries which have not been explained by the prosecution, then it will be difficult for the Court to rely on the evidence of PWs. 1 to 4 and 6 more particularly, when some of these witnesses have lied by stating that they did not see any injuries on the person of the accused. Thus, neither the Sessions Judge nor the High Court appears to have given due consideration to this important lacuna or infirmity appearing in the prosecution case. We must hasten to add that as held by this Court in **State of Gujarat v. Bai Fatima** Criminal Appeal No. 67 of 1971 decided on March 19, 1975 : Reported in there may be cases where the non-explanation of the injuries by the prosecution may not affect the prosecution case. This principle would obviously apply to cases where the injuries sustained by the accused are minor and

superficial or where the evidence is so clear and cogent, so independent and disinterested, so probable, consistent and credit-worthy, that it far outweighs the effect of the omission on the part of the prosecution to explain the injuries. The present, however, is certainly not such a case, and the High Court was, therefore, in error in brushing aside this serious infirmity in the prosecution case on unconvincing premises.”

In the present case, the prosecution has examined PW6 Ranjit Singh in respect of ocular account. He is none else but the son of the deceased. The other witness examined by the prosecution is PW7 Jaswant Singh, who happened to be the second son of the deceased. However, according to him, he had not witnessed the occurrence, which took place on the roof top of the house of the accused. Though, he was following his father Karnail Singh and brother Ranjit Singh, when they were going to the house of the accused to lodge a protest but he was still at a distance of four kanals, when he heard the noise of his brother Ranjit Singh. He hurriedly reached near the house of the accused, where he was told by Ranjit Singh about the manner, in which, the occurrence has taken place. According to PW6 Ranjit Singh, the hue and cry raised by him in the street attracted many persons whereas according to PW7 Jaswant Singh, 10/12 persons had gathered there. Despite the same, none of those persons, who could be termed as independent witnesses being

not related to the complainant party, has been examined by the prosecution in support of its case. Similarly, the Investigating Agency had initiated cross-case against the complainant party and finally presented the challan against five persons of the complainant party including Ranjit Singh and Jaswant Singh @ Jassa. When such is the position, it could safely be held that the prosecution has suppressed the genesis and origin of the occurrence and, thus, not presented the true version. Further, the witnesses, who have denied the presence of the injuries on the person of the accused are lying on a most material point and, therefore, their evidence is unreliable. At the same time, as there was a defence version, which explained the injuries on the person of the accused, it is rendered probable and, consequently, the prosecution case becomes doubtful.

As a corollary to what has been stated above, it would not be safe to sustain the impugned judgment of conviction and sentence passed by the trial Court.

Resultantly, Criminal Appeal D-803-DB of 2009 filed by Fateh Singh @ Fatta, appellant against his conviction and sentence is accepted whereas criminal Appeal D-473-DB of 2010 filed by State of Haryana against the acquittal of Krishan Kumar, accused and Criminal Revision 590 of 2010 filed by complainant Ranjit Singh against the acquittal of Krishan Kumar and Baaj

Singh and for the enhancement of sentence of imprisonment of Fateh Singh @ Fatta and grant of adequate compensation, are dismissed.

**(T.P.S. MANN)
JUDGE**

September 14, 2016
amit rana

**(GURMIT RAM)
JUDGE**

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No