

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

CRA-D No. 211-DB of 2012 (O&M)

Date of decision : December 08, 2016

Gurlal Singh

.....Appellant

Versus

State of Punjab

....Respondent

**CORAM:- HON'BLE MR. JUSTICE S.S. SARON
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. Ashish Gupta, Advocate
for the appellant.

Ms. Ritu Punj, Additional AG, Punjab.

S.S. SARON, J.

Learned counsel for the State has filed affidavit of Sh. Sukhwinder Singh, PPS Superintendent, Open Air Agriculture Jail, Nabha. In terms of the affidavit that has been filed, the appellant has undergone actual imprisonment of 07 years, 07 months and 21 days as on 21.09.2016. He has earned remissions of 05 years, 09 months and 10 days. In all, he has undergone imprisonment of 13 years, 05 months and 01 day with remissions as on 21.09.2016.

Learned counsel for the appellant submits that keeping in view the period of imprisonment undergone by the appellant and the fact that the case of the appellant for his premature release in accordance with the State Government instructions is due for

consideration, he has filed CRM No.25415 of 2016 for withdrawing the appeal stating that the appellant does not want to pursue the appeal.

Learned counsel for the State has no objection to the same.

We have given our thoughtful consideration to the matter.

The appeal has been filed by Gurlal Singh (appellant) against the judgment and order dated 22.12.2011 passed by the learned Additional Sessions Judge, Bathinda whereby the appellant has been convicted for the offence punishable under Section 302 Indian Penal Code ('IPC' - for short) and also under Section 30 of Arms Act, 1959. The co-accused of Gurlal Singh (appellant) namely Maha Singh alias Maheshinder Singh and Sikander Singh alias Sher Sikander Singh were acquitted by the learned Additional Sessions Judge, Bathinda by giving them the benefit of doubt. Gurlal Singh (appellant) was sentenced to undergo rigorous imprisonment for life; besides, pay a fine of Rs.10,000/- and in default thereof undergo rigorous imprisonment for four months for the offence under Section 302 IPC. He was also sentenced to rigorous imprisonment for six months; besides, pay a fine of Rs.2,000/- and in default thereof undergo rigorous imprisonment for one month for the offence under Section 30 of the Arms Act. Both the sentences were ordered to run concurrently.

FIR in the case was registered on the statement of Lakhvir Singh (complainant), which was recorded by the Police at the Bus Stand of village Dialpura Mirza on 05.01.2008 at 9.40 p.m. The

complainant alleged that on that day i.e. 05.01.2008 it was about 7.30 p.m., he and his brother Satvir Singh (deceased in the case) were going on a Hero Honda motorcycle with registration No. PB-03-N-4526. Satvir Singh was driving the motorcycle while the complainant was riding the pillion. When they reached near the shop of Kala Ram, then brother of the complainant i.e. Satvir Singh parked his motorcycle. He was going to get some articles from the shop. The complainant turned towards the other side for easing himself. An electric light was on in front of the shop of Kala Ram. The complainant at that time heard noise of a fire arm being fired. When he turned towards the shop, he saw Gurlal Singh (appellant) armed with a revolver in his right hand and he was firing. Maha Singh and Sikander Singh sons of Bhola Singh were with him. Both of them were kicking Satvir Singh on his legs. The complainant raised an alarm and all three of them ran away by raising 'lalkaras'. When the complainant came near his brother, he saw that one fire arm shot had hit him on his right eye and there were two fire arm shots on his back. Due to the said injuries, Satvir Singh died at the spot.

The complainant left Kala Khan a co-villager to keep a guard on the dead body of Satvir Singh and he was proceeding to lodge a report with the police. The police, however, met him on the way. The reason for the incident was that some years earlier Satvir Singh had killed Bhola Singh, the brother of Gurlal Singh (appellant). Satvir Singh was convicted and he was now out of jail after completing his sentence. Due to the said grudge, Gurlal Singh (appellant), it is stated, had killed Satvir Singh. It was requested that

action be taken against the accused. After registration of the case, Gurlal Singh was arrested. His co-accused Maha Singh and Sikander Singh were found innocent in the investigation. The police report ('challan') was filed in the Court of the learned Sub Divisional Judicial Magistrate, Phul on 05.04.2008 against Gurlal Singh (appellant) only.

The appellant was charged for the offences punishable under Section 302 IPC and Section 30 of the Arms Act on 13.06.2008.

The prosecution in order to prove its case examined Lakhvir Singh - complainant (PW1). Thereafter, an application was filed under Section 319 of Code of Criminal Procedure ('Cr.P.C.' - for short) to summon additional accused Maha Singh and Sikander Singh, which was allowed vide order dated 06.01.2009. Lakhvir Singh (complainant) had again appeared in the witness box after framing of charge against the additional accused.

The complainant Lakhvir Singh deposed on the lines on the basis of which FIR had been registered. Dr. Kuldeep Rai (PW3) conducted the post mortem examination on the dead body of Satvir Singh. He found the following the injuries on his person:-

- “1. Lacerated wound 14 x 0.25 cm, with clotted blood and inverted margins on lateral side of right eye brows, blackening and tattooing present. On dissection, a small metallic piece was recovered under the scalp embedded in bone.
2. Lacerated wound 0.3 x 0.3 cm, with inverted margins on lateral side of right chest on 9th,

intercostal space. Blackening and tattooing was present. Clotted blood was present.

3. Lacerated wound 0.4 x 0.3 cm, on upper back a little right lateral to midline, clotted blood present. Margins are everted. On dissection, the injury No. 2 goes through right lung and right side of heart, after traversing the intercostal space to the injury No. 3. There are also holes on track shirt and banyan which the deceased was wearing.”

It is a case of direct evidence in which Gurlal Singh (appellant) is stated to have fired at Satvir Singh; besides, there was enmity between them inasmuch as Satvir Singh had committed the murder of Bhola Singh - brother of Gurlal Singh (appellant). Satvir Singh after completing his sentence was out from jail and, therefore, his murder had been committed by Gurlal Singh (appellant).

Dr. Kuldeep Rai (PW3) deposed regarding the fact of the fire arm injuries that were caused. A perusal of the same shows that there were three lacerated wounds which had been caused with fire arm.

The appellant was arrested on 08.01.2008. He made a disclosure statement regarding the concealment of the revolver in his house along with the arms licence. In pursuance of the disclosure statement, he got recovered a .32 bore revolver along with arms licence and three live cartridges; besides, three empty cartridges from the chamber of the revolver. According to the Forensic Science Laboratory report Ex.PN, one cartridge case was fired from .32 bore

revolver No.FG/13665. The other two cartridge cases were not fired from this revolver. However, the learned trial Court observed that the weapon was recovered after three days of the occurrence and the same remained in the possession of the accused and, therefore, the tampering of evidence by the accused could not be ruled out.

These aspects show the involvement of the appellant. However, keeping in view the fact that the learned counsel for the appellant has prayed for withdrawing the appeal, it would be just and expedient in the facts and circumstances to permit him to withdraw the appeal.

Accordingly, the appeal is dismissed as withdrawn.

(S.S. Saron)
Judge

December 08, 2016
Rts

(Lisa Gill)
Judge

Whether speaking/reasoned : Yes

Whether reportable : No