

201

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-761-SB of 2004 (O&M)
Date of decision: April 27, 2016

Mal Singh and others

.....Appellants

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: None for appellants No.1 to 3 and 5.

Mr. Gopal Singh Nahel, Advocate
for appellant No.4.

Mr. Yogesh Gupta, AAG Punjab.

Mr. Munish Raj, Advocate for
Mr. Maninder Singh Bajwa, Advocate
for respondent No.2.

Mr. Munish Raj, Advocate
for respondent No.3.

1. Whether Reporters of Local papers may be allowed to see the judgment? **yes**
2. To be referred to the Reporters or not? **no**
3. Whether the judgment should be reported in the Digest? **no**

A.B. CHAUDHARI, J (Oral)

CRM No.31483 of 2015

Today, this application was placed before me for
impleading Maghar Singh as respondent No.3.

Application is allowed subject to all just exceptions.

Let necessary amendments be carried out in the memo of
parties forthwith.

CRM No.15706 of 2015 AND
CRA-S-761-SB of 2004 (O&M)

Affidavit of Maghar Singh-respondent No.3 filed in

Court today, by Mr. Munish Raj Chaudhary, Advocate, is taken on record.

CRM No.15706 of 2015 is for compounding of offences, which is being taken up along today with CRA-S-761-SB of 2004 today, itself. The main appeal is not listed today. However, I find that the application filed by appellant No.4, is for compounding of offences for which accused were convicted and affidavits in this regard, are filed by injured-Jail Singh and complainant-Maghar Singh. The main appeal can be heard today.

Mr. Yogesh Gupta, learned AAG Punjab fairly states that all these convicts-appellants have undergone sentence of one year and 5 months each, whereas, appellant No.4-Jugraj Singh has undergone 2 years, 8 months and 23 days with remission.

Complainant-Maghar Singh as well as injured-Jail Singh had been identified by Mr. Maninder Singh Bajwa, Advocate as stated by Mr. Munish Raj, Advocate and Gopal Singh Nahel, Advocate.

I have perused the impugned judgment and order dated 20.03.2004 and conviction recorded by the learned trial Judge, carefully. I have also perused the injuries which are caused to Injured-Jail Singh and have been described by the learned trial Judge in Paragraph 9 of the impugned judgment.

The record does not show that there was any fracture as such caused to injured-Jail Singh. However, the

injury caused to the mandible is in the nature of big contusion, reddish in colour and is a serious injury caused by the *butt* of the gun. Nevertheless, there was no fracture and as such, in law, the same cannot be held to be grievous hurt, though, in other words, the same can be described as 'hurt' in the definition of 'hurt'. In that view of the matter, even otherwise, the conviction under Section 308 of the Indian Penal Code, 1860 ('IPC' for short) may not be justified. It is seen from the background facts and evidence of the case that the appellants assaulted injured-Jail Singh with the allegation that he was always abusing. Looked from that background and at the nature of the injuries caused, as stated above, I do not think that the conviction could really be made under Section 308 IPC. Be that as it may, without disturbing the finding of conviction; having regard to the fact that the appellants have undergone enough sentence and further fact that the informant-Maghar Singh and injured-Jail Singh both have approached this Court by way of their application and affidavits that they want to compound the offences in view of their relationship in the village where they live. In that view of the matter, the counsel for the parties have prayed for compounding the offences for which they have been convicted.

Learned AAG Punjab has further opposed this application stating that the offences are serious in nature for which the appellants were convicted.

I have considered the submissions made by learned counsel for the parties, also the application and affidavits filed by injured-Jail Singh and complainant-Maghar Singh residing in the same village. It is stated in the affidavits that the villagers have impressed upon them to have compounding and live in peace. I think compounding of offences as prayed for should be allowed to be made in the light of parameters laid by the Hon'ble Supreme Court in Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 543.

In that view of the matter, I make the following order:-

ORDER

CRA-S-761-SB of 2004 is partly allowed in view of the compounding of offences as prayed for before this Court by way of application and affidavits filed by injured-Jail Singh as well as complainant-Maghar Singh. The judgment and order dated 20.03.2004 is consequently set aside and the appellants are acquitted by way of compounding of offences.

CRM No.15706 is disposed of.

(A.B. CHAUDHARI)
JUDGE

April 27, 2016
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