

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal S-890-SB of 2004

Date of Decision : February 11, 2016

Amrik Singh and others		Appellants
	Versus	
State of Punjab		 Respondent

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

Present : Mr. R.S.Rai, Senior Advocate with
Mr. Dilpreet Singh, Advocate
for the appellants.

Mr. Vikram Bishnoi, Asstt. Advocate General, Punjab.

Mr. C.S.Jattana, Advocate
for the complainant.

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

Appellants Amrik Singh, Gamdoor Singh, Kulwinder Singh and Harcharan Singh were tried for committing offences punishable under Sections 307/324/323 read with Section 34 IPC on the allegations that on 17.12.2001 at about 11.00 a.m., they had caused injuries to complainant Jangir Singh and his son Gurcharan Singh, which injuries were later on declared to be collectively dangerous to life. Vide impugned judgment and order dated 31.3.2004, learned Additional Sessions Judge, Sangrur, convicted them under Section 307 read with Section 34 IPC and sentenced them to undergo rigorous imprisonment for seven years and to pay a fine of Rs.5,000/- each and in default of

payment of fine, to further undergo rigorous imprisonment for six months. They were further convicted under Section 324 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for six months each. They were also convicted under Section 323 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for three months each. All the sentences were ordered to run concurrently. The period of detention, if already undergone by any of the convicts during remand or trial proceedings was ordered to be set off against the aforementioned sentences.

Aggrieved of their conviction and sentences, the appellants filed the present appeal. At the same time, complainant Jangir Singh filed CRR 1513 of 2004, wherein, he sought enhancement of sentences of imprisonment imposed upon the appellants and also to pay an amount of Rs.10,00,000/- towards damages/compensation to the complainant party. As both the appeal and revision had arisen out of the same judgment of conviction and sentence, they are being disposed of together.

According to the prosecution, on 17.12.2001, at about 10.30 a.m. complainant Jangir Singh along with his son Gurcharan Singh went to their fields, while being empty handed, to see the watt made by them. At that time, all the appellants were present in their fields. The complainant protested to the appellants for throwing earth of their fields on the wheat sown by them in their fields. When this was specifically put to appellant Harcharan Singh, he replied that they

would keep on throwing earth into their fields. Saying so, Harcharan Singh went back to his fields and after some time came back armed with a Gandasa. He was accompanied by his sons Amrik Singh with a Gandasa and Kulwinder Singh and Gamdoor Singh with spades. At that time, complainant's other son Rajwinder Singh along with his friend Pargat Singh also reached there. At about 11.00 a.m. and in the presence of Rajwinder Singh and Pargat Singh, Amrik Singh inflicted a Gandasa blow from its sharp side on the right side of head of Gurcharan Singh. Gamdoor Singh inflicted a blow with a spade from its sharp side on the left side of his son Gurcharan Singh, as a result of which, Gurcharan Singh fell down on the ground. The complainant, his son Rajwinder Singh and Pargat Singh raised hue and cry asking the appellants not to inflict injuries. In the meantime, Harcharan Singh gave a Gandasa blow on the right side of the head of complainant Jangir Singh. Kulwinder Singh inflicted a blow with a spade from its reverse side on the left side of complainant's head, as a result of which, he also fell down. While he lay fallen, Kulwinder Singh inflicted another blow with his spade from its reverse side on the upper portion of the right arm of complainant Jangir Singh. Thereafter, Amrik Singh inflicted blow with his Gandasa on the head of complainant's son. Gamdoor Singh inflicted blow with his spade from its sharp side on the right side of head of Gurcharan Singh. Harcharan Singh inflicted a gandasa blow from its sharp side on the right palm of Gurcharan Singh. Amrik Singh inflicted a Gandasa blow on the left shoulder of Gurcharan Singh. All the accused caused more injuries on the

complainant and his son Gurcharan Singh. After the occurrence, complainant Jangir Singh and his son Gurcharan Singh were transported to Civil Hospital, Dhuri for treatment. They were medico-legally examined and the doctor, thereafter, sent ruqa to the police station. On receiving the same, ASI Mahavir Singh went to Civil Hospital, Dhuri so as to record the statement of injured. As Gurcharan Singh was found unfit to make a statement, ASI Mahavir Singh recorded the statement of complainant Jangir Singh, on the basis of which, FIR No. 379 dated 18.12.2001 under Sections 307/326/325/324/323/34 IPC was registered against the appellants at Police Station, Dhuri.

As mentioned above, the trial of the case ended with conviction and sentences of the appellants in the manner as stated above.

Learned counsel for the appellants has not challenged the impugned judgment of conviction passed by the learned trial Court. He has, however, submitted that the appellants have been facing the agony of criminal prosecution for the last more than fourteen years. All of them, belong to same family. During the investigation of the case, appellant Harcharan Singh was found to be innocent and, later on, summoned under Section 319 Cr.P.C. as additional accused. It is also submitted that the appellants are first offenders. Even according to the prosecution, there was no enmity between the parties, other than the incident of throwing loose soil by the appellants in the fields of the

complainant. It is further submitted that appellants Amrik Singh, Gamdoor Singh and Kulwinder Singh have already undergone more than two years and seven months out of the sentence of seven years imposed upon them. As regards Harcharan Singh, it has been mentioned that he remained on bail during the trial of the case and was taken into custody upon his conviction and sentence by the trial Court. He has also undergone a period of about ten months. He was sixty one years old at the time of trial of the case. It is also submitted that during the pendency of the appeal, the appellants have not misused the concession of bail. Prayer has, accordingly, been made for setting aside the remaining sentences of imprisonment of the appellants.

Learned State counsel as well as learned counsel for the complainant have vehemently opposed the prayer made on behalf of the appellants by submitting that while complainant Jangir Singh had received three injuries during the occurrence, his son Gurcharan Singh had suffered ten injuries at the hands of the appellants. The injuries on both the injured were declared collectively dangerous to life.

Learned State counsel has already placed on record custody certificates which indicate that while appellant Amrik Singh has undergone an actual period of two years, six months and fourteen days, appellants Gamdoor Singh and Kulwinder Singh have already undergone an actual period of two years, eight months and five days.

Similarly, appellant Harcharan Singh has undergone an actual period of nine months and twenty seven days. Besides, appellant Amrik Singh had earned remission of one year and twelve days whereas appellants Gamdoor Singh and Kulwinder Singh have earned remissions of two years and twenty days while appellant Harcharan Singh earned remission of two years and twenty four days. None of the appellants is shown to be involved in any other case.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the appellants behind the bars to undergo their remaining sentences of imprisonment. Ends of justice would be amply met, if their, substantive sentences of imprisonment are reduced to that already undergone by them. At the same time, each of the appellants can be required to pay substantial amount as fine so that it may be paid as compensation to the complainant party.

Resultantly, the conviction of the appellants for the various offences, as recorded by the trial Court, is maintained. Their substantive sentences of imprisonment on all the counts are reduced to the one already undergone by them. At the same time, fine of Rs.5,000/- imposed upon each of the appellants under Section 307 read with Section 34 IPC is enhanced to Rs.1,00,000/-. In default of its payment, the defaulting appellant shall undergo rigorous imprisonment for one and half year. The entire amount of fine be deposited by the appellants within a period of three months from

today. The same shall, thereafter, be paid to complainant Jangir Singh and his son Gurcharan Singh as compensation in equal shares.

The present appeal and Criminal Revision 1513 of 2004 filed by complainant are disposed of accordingly.

February 11, 2016
amit rana

(T.P.S. MANN)
JUDGE