

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA No.S- 2889-SB of 2014 (O&M)

Date of decision: 31.03.2016

Binder Ram and others

.....Appellants

versus

State of Punjab

.....Respondent

CRA No.S- 2834-SB of 2014 (O&M)

Tarsem Lal

.....Appellant

versus

State of Punjab

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.Aakash Singla, Advocate for the appellants in
CRA No.S- 2889-SB of 2012
Mr.L.M.Gulati, Advocate for the appellant in
CRA No.S- 2834-SB of 2014
Mr.A.P.S.Gill, AAG Punjab

1. *Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J.

By this single judgment, I shall dispose of CRA No.S- 2889-SB of 2014 and CRA No.S- 2834-SB of 2014. However, for the facility of reference, facts are being extracted from CRA No.S- 2889-SB of 2014.

Impugned in the present appeal is the judgment dated 11.6.2014, passed by the learned Additional Sessions Judge (Fast Track Court), Bathinda, vide which, the present appellants were convicted under Sections 307, 326, 323, 427, 506, 148, 149 IPC and

sentenced as under:-

Ram Chand

<i>Under Section</i>	<i>Sentence awarded</i>	<i>Fine imposed</i>	<i>In default of payment of fine</i>
307 IPC	RI for 5 years	Rs.2000/-	2 months
326 IPC	RI for 3 years	Rs.1000/-	1 month
323 IPC	RI for 6 months	-	-
148 IPC	RI for 1 year	-	-
427 read with section 149 IPC	RI for 3 months	-	-
506 read with section 149 IPC	RI for 3 months	-	-

Nand Lal and Tarsem Lal

<i>Under Section</i>	<i>Sentence awarded</i>	<i>Fine imposed</i>	<i>In default of payment of fine</i>
307 IPC	RI for 5 years	Rs.2000/-	2 months
326 read with section 149 IPC	RI for 3 years	Rs.1000/-	1 month
323 IPC	RI for 6 months	-	-
148 IPC	RI for 1 year	-	-
427 read with section 149 IPC	RI for 3 months	-	-
506 read with section 149 IPC	RI for 3 months	-	-

Binder Ram, Gopal Ram, Janta Singh @ Gurjant Singh, Hema Ram

@ Hem Raj and Bija Ram

<i>Under Section</i>	<i>Sentence awarded</i>	<i>Fine imposed</i>	<i>In default of payment of fine</i>
307 IPC read with section 149 IPC	RI for 5 years	Rs.2000/-	2 months
326 read with section 149 IPC	RI for 3 years	Rs.1000/-	1 month
323 IPC	RI for 6 months	-	-
148 IPC	RI for 1 year	-	-
427 read with section 149 IPC	RI for 3 months	-	-
506 read with section 149 IPC	RI for 3 months	-	-

However, they were acquitted for the offence under Section 379 IPC and 25 of the Arms Act, 1959.

Facts of the case

The prosecution story in brief is that on 13.11.2010, at about 5.00 PM, Jagdev Singh complainant was ploughing his land with Ford Tractor bearing registration No.PB-24-0335 belonging to his maternal grandson (daughter's son) Harbhajan Singh son of Mithu Singh, resident of village Bhundar. Harbhajan Singh was driving the tractor. Deep Singh and Kuldeep Singh sons of Jagdev Singh were mending the boundaries of the land. Jagdev Singh was talking to his brother Gurjit Singh in fields. One Maruti Car bearing registration No.PB-03L-1513, which was gifted by complainant to his son-in-law Gurnarpinder Pal Singh, resident of village Lehra Mohabbat, was also lying parked in the land of Gurjit Singh, wherein two 12 bore double barrel guns, one belonging to Jagdev Singh complainant and other belonging to his brother Gurjit Singh along with 20 cartridges each were lying.

It is alleged that in the meanwhile, Ram Chand armed with gandas, Nand Lal son of Ram Chand armed with slung, Gopal Ram son of Ram Chand armed with gandas, Janta Singh @ Gurjant Singh son of Mukhtiar Singh armed with Hockey, Binder Ram son of Hari Ram armed with gandas, Hema Ram @ Hem Raj son of Binder Ram armed with gandas, Bija Ram @ Vijay Kumar son of Binder Ram armed with Hockey, Tarsem Lal @ Handel, resident of village Phul armed with 12 bore double barrel gun, came on a white coloured Escort tractor, which was being driven by Nand Lal. A

trolley was also attached with the tractor, which was covered with the jute sheets, in which the remaining accused were hiding. They were also followed by 8-10 unknown persons on four motorcycles, who were also carrying *dangs* and *gandasa*. Complainant can recognize them, if brought before him. It is alleged that on arrival, Ram Chand raised a Lalkara for teaching a lesson to the complainant party for not vacating the land. The complainant Gurjit Singh and his brother came forward to restrain the accused. On this, unknown persons and Tarsem Lal @ Handle pulled down Harbhajan Singh from the tractor and gave him fist blows. They also broke the headlights of the tractor and also tore the roof of the tractor. Ram Chand, Nand Lal and Binder Ram caught hold of Gurjit Singh and started giving injuries to him. Complainant Jagdev Singh tried to run towards the village but he was caught by Gopal Ram, Hema Ram, Bija Ram and Janta Singh in the fields of Jugraj Singh son of Jagir Singh. Then Gopal Ram gave a blow of reverse side of *gandasa* on the head of Jagdev Singh. Janta Singh gave a hockey stick blow, which hit the left ear of Jagdev Singh. Gopal Ram gave a blow of reverse side of *gandasa*, which hit right arm below the elbow of Jagdev Singh. Hema Ram gave *gandasa* blow which hit the left leg below the knee joint. Bija Ram gave hockey blow, which hit the back of the complainant. Thereafter, Bija Ram gave two hockey blows thrust wise on the face of the complainant. Sons of the complainant being frightened ran away from the spot after witnessing the occurrence. Thereafter, all the assailants broke the windowpanes of the Maruti car and took out the two guns and cartridges. Thereafter, with an

intention to kill the complainant party, they fired shots at them. The complainant party was able to save themselves by laying in the water course. Thereafter, the assailants ran away with the said two guns along with cartridges.

According to the Jagdev Singh, the motive for the crime is that in the year 1985, they had purchased a house from Jagsir Singh son of Ajmer Singh had and given the same to Ram Chand etc. In lieu of which, one acre of land was taken by complainant Jagdev Singh, Gurjit Singh and his third brother Balwinder Singh. No writing in this regard was executed nor the registered document was executed. Balwinder Singh returned his land measuring 2 ½ Kanals. Regarding the 5 kanals of land of the complainant and his brother, the case is pending in the Court. Therefore, on account of the said dispute, the accused have assaulted him.

As per proceedings recorded by the police, on 13.11.2010, a telephonic message was received from MHC, PS Rampura regarding admission of Jagdev Singh and Gurjit Singh in civil hospital due to injuries, upon which, ASI Sukhpal Singh along with HC Gurjit Singh had visited the civil hospital Rampura, where the doctor declared them unfit to make the statement.

On 14.11.2010, ASI Sukhpal Singh again visited the civil hospital, Rampura, where Jagdev Singh was found to be talking with his relations. Jagdev Singh, thereafter, made the statement (Ex.PA) to the police, upon which, formal FIR (Ex.PW8/B) was registered.

Harbhajan Singh was medico legally examined on 14.11.2010 at 6.30 pm whereas Jagdev Singh as well as Gurjit Singh

were medico legally examined by the doctor on 13.11.2010 between 6.45 PM and 6.50 PM respectively. Supplementary MLR of Gurjit Singh was also prepared on 18.11.2010 at 10.00 AM. Vide opinion (Ex.PW8/A), injury No.3 on the person of Gurjit Singh was declared as grievous in nature. Other injuries were declared simple in nature.

It further comes out from the discharge summary (Ex.PW4/L) that on 20.11.2010, Jagdev Singh left the hospital against the medical advice.

Police visited the spot on 14.11.2010 and took into the possession one pair of plastic *chappals* belonging to Gurjit Singh, injured vide recovery memo (Ex.PW8/E). 4 empties of 12 bore gun were also recovered from the spot, which were taken into possession vide recovery memo (Ex.PW8/F). The tractor Ford with broken head lights and torn roof was taken into possession vide recovery memo (Ex.PW8/G). One Maruti car bearing registration No.PB-03L-1513 with front glass and right side glass broken was taken into possession vide recovery memo (Ex.PW8/H). Police also prepared the visual site plan (Ex.PW8/I). Later on, the scaled site plan was also got prepared from Patwari (Ex.PW5/A).

It is further alleged that in pursuance to the disclosure statements, Ram Chand got recovered one stolen 12 bore gun belonging to Jagdev Singh along with one gadasa. One 12 bore gun and slung were recovered from Nand Lal. One gadasa was recovered from Binder Ram. One hockey was recovered from Gurjant Singh. The Escort tractor was got recovered by Nand Lal on his disclosure statement. Rough sketches of the said weapons were

prepared.

After the completion of investigation, challan was presented in the Court.

It comes out that originally, Hema Ram son of Binder Ram, Bija Ram son of Binder Ram and Tarsem Lal @ Handle were not challaned by the police. They were summoned by learned Additional Sessions Judge, Bathinda vide order dated 9.7.2012 on an application moved under Section 319 Cr.P.C.

In order to prove its case, the prosecution examined PW1 Dr.S.K.Raj Kumar, PW2 Gurjit Singh, PW3 Jagdev Singh, PW4 Dr.Seema Garg, PW5 Gurbax Singh, Patwari, PW6 Dr.R.P.Singh, PW7 Malkeet Kaur, Clerk, DTO office, PW8 ASI Sukhpal Singh, PW9 HC Jarnail Singh, PW10 Bhajan Singh, Jr.Asstt. DC Office, PW11 HC Jit Singh, PW12 Sunil Kumar, PW13 Manpreet Singh, PW14 Narinder Kumar, Reader to DC, PW15 HC Amritpal Singh and closed the evidence.

When examined under Section 313 Cr.P.C., the accused Binder Ram denied as incorrect the evidence led against him and stated that he has been falsely implicated on account of his relationship with co-accused Nand Lal, who is his son-in-law. He has only two sons, namely, Binder Ram and Hema Ram @ Hem Raj, who have also been falsely implicated in this case. They were found innocent during the inquiry. He was not present at the time of alleged occurrence. No recovery was effected from him. Jagdev Singh has concocted a false story, on account of land dispute with Ram Chand co-accused.

Ram Chand took the plea that he has been falsely implicated on account of land dispute with the complainant and his family members. He stated that on 2.11.2010, a civil suit pending in the Civil Court, Phul was decreed in his favour. Even appeal filed by the complainant and his family before District Judge, Bathinda was dismissed. On account of this fact, the complainant was nursing a grudge against him and his family members and they have falsely involved his both sons, namely, Nand Lal and Gopal Ram. No recovery was effected from him or his sons. He stated that earlier, the complainant Jagdev Singh and his sons had caused injuries to him on 30.7.2010, for which he remained admitted in civil hospital, Rampura. He had also informed police but no case was registered by the police. On 13.11.2010, he was present on his duty as Assistant Lineman in Electricity Board where he remained present till 5.30 PM at Kararwala.

Accused Nand Lal and Gopal Ram, claimed that they are innocent.

Accused Janta @ Gurjant claimed that he has been falsely implicated as he used to help co-accused Nand Lal and Gopal Ram in the agricultural activities as in return they used to help him in his fields. He did not cause any injury to anybody nor he was present at the alleged time and place of occurrence. He stated that his fields are at the sufficient distance from the alleged place of occurrence.

Hema Ram @ Hem Raj claimed that he has been falsely implicated along with his father and brother Bija Ram being relations of Nand Ram –co-accused. He has also stated that he was not

present at the time, place and date of alleged occurrence. He was working as a driver on tractor-trailer bearing registration No.RJ-31-G-4232 of Dharam Pal Sharma resident of Dhapali. He along with Satpal Singh conductor of the said vehicle had gone to Pathankot for loading stones from a crusher on 12.11.2010. They returned with stones on 13.11.2010 and unloaded the truck at 6.30 PM after reaching the village Kotha Guru at 6.30 PM. They returned to village Dhapali at 9.00 PM. He had also moved an application regarding his false implication. After conducting the inquiry, the DSP, Sub Division, Phul found him innocent.

Accused Bija Ram @ Vijay Kumar also claimed that he has been falsely involved due to his relationship with Nand Lal accused. He stated that on 13.11.2010, he was present in grain market of village Dhapali till late night as he was cleaning the paddy crop with the help of thrasher and was seen present by many persons. He also stated that on his complaint, an inquiry was conducted and he was found innocent by DSP Sub Division, Phul.

Accused Tarsem Lal claimed that he was not present at the time of occurrence. He does not hold any arms licence. He claimed that he is working as a lineman in PSPCL. During the days of occurrence, he was posted at Rayya as Lineman. He remained present on his duty on 13.11.2010 till late evening. He also marked present in the attendance register. Village Rayya is at the distance of 20 kms from the alleged place of occurrence. He claimed that regarding his false implication, he had moved the higher authorities and after the inquiry, he was found innocent by DSP Sub Division,

Maur. He claimed that some years back, he had suffered an electricity shock. Due to this reason, he had problem in spine and cannot walk or stand properly. He further stated that some time prior to 13.11.2010, he along with Resham Singh, JE had gone to village Burj Manshahia to check the domestic electric meters and they had requested the complainant to pay the electricity bill or the power supply will be disconnected. Complainant had abused him and they had exchanged hot words. Due to this reason, he has been falsely involved.

After hearing both the parties and going through the evidence, learned Additional Sessions Judge, Bathinda acquitted the accused under Section 379 IPC and 25 of the Arms Act. However, they were convicted and sentenced as aforesaid.

I have heard learned counsel for the parties and have also carefully gone through the file.

First of all taking up the delay in recording the FIR, it comes out that the occurrence took place on 13.11.2010 at about 5.00 PM and the present FIR was registered on 14.11.2010 at about 4.30 PM. In this case, three injured were admitted in the hospital, namely, Harbhajan Singh, Jagdev Singh and Gurjit Singh. According to ASI Sukhpal Singh, on 13.11.2010 on receiving telephonic message, he had visited the hospital but the injured were declared unfit to make the statement. However, no such opinion of the doctor regarding unfitness is on the file. In any case, Harbhajan Singh is stated to have been given only fist blows and mere fist blows cannot make a person unfit to make the statement. He was very much available in

the hospital. Therefore, I am of the view that prima-facie there is unexplained delay of about 24 hours in recording the FIR. The net result is that the Court is put on its guards to scrutinize the prosecution evidence with more care and caution to rule out the possibility of false implication and roping in of the other innocent members of the family. It is to be noted that in this case, two of the accused, namely, Ram Chand and Tarsem Lal are government employees, being Assistant Lineman and Lineman and are posted at different places away from the place of occurrence. They claimed that they were present at their place of posting and have been falsely implicated. It is also to be noted that three of the accused, namely, Hema Ram @ Hem Raj, Bija Ram son of Binder Ram as well as Tarsem Lal @ Handle who claims to be lineman in PSPCL and present at the place of posting were found to be innocent by the police. Therefore, the case qua these three accused, namely, Hema Ram, Bija Ram son of Binder Ram, Tarsem Lal as well as Ram Chand is to be scrutinized with more care and caution.

Medical Evidence

The statement of Dr.S.K.Raj Kumar (PW1) shows that when Harbhajan Singh injured was examined on 14.11.2010, following injuries were found on his person:-

- “1. Reddish bluish contusion measuring 5 cm x 3 cm on the outer side of left arm, just above left elbow.*
- 2. Reddish contusion 5 cm x 3 cm on the front and middle of left thigh.”*

The duration of injuries was within 24 to 48 hours and these were

caused with blunt weapons. These are alleged to have been given by Tarsem Lal and unidentified person with fist blows. The perusal of these injuries shows that the possibility of these being given with fist blows are highly improbable. Injury No.1 is on the outer side of left arm, which is reddish bluish contusion and injury No.2 is on the front and middle of left thigh. Whenever there is a fight and fist blows are given, these are normally given on the upper portion of the body and it is improbable that one will bend to give fist blows on thigh. Therefore, the story qua causing injuries to Harbhajan Singh, who otherwise did not appear in the Court to state his case, has to be disbelieved.

Now, coming to the injuries of other two persons, namely, Jagdev Singh and Gurjit Singh. Dr.Seema Garg (PW) stated that when on 13.11.2010, at 6.45 PM, Jagdev Singh was examined, following seven injuries were found on his person:-

- 1. 1 cm x 1 cm lacerated wound on left parietal region just lateral to midline. Active bleeding was present. Advised x-ray.*
- 2. Diffuse swelling on nose with bleeding from both nostrils more from left side. Tenderness was present. Advised x-ray.*
- 3. 2 cm x 3 cm reddish abrasion on upper 1/3rd and lower 2/3rd junction of ventral aspect of right forearm.*
- 4. Black left eye.*
- 5. 5 cm x .5 cm lacerated wound on upper lip at level of left upper canine. Advised dental opinion and x-ray.*

Active bleeding was present.

6. Red abrasion on medial side of left knee in front.

7. 15 cm x 3 cm reddish bruise on left side of back.

She further stated that when Gurjit Singh was examined at 6.50 PM, following three injuries were found on his person:-

1. 9 cm x 0.5 cm lacerated wound on left parietal region.

Active bleeding was present. Advised x-ray.

2. 10 cm x 0.2 cm linear abrasion red on front of right side of chest tailing laterally.

3. 6 cm x 2cm incised wound on left side of chin including lower lip through and through with underlying tissue lacerated at the left lower canine level. Advised dental opinion and x-ray.

Injury No.3 on the person of Gurjit Singh was later on declared as grievous as lateral incisor, canine and first pre molar were absent from the socket and the gums were bleeding with corresponding injury on the soft tissue. It is to be noted that regarding injury No.3, supplementary MLR dated 18.11.2010 was prepared at 10.00 AM.

Discussion

When statement of Gurjit Singh (PW2) is examined, according to him, while stating about the arrival of the accused, he stated that Ram Chand had raised Lalkara (exhortation), then Tarsem Lal and unidentified person pulled down Harbhajan Singh from the tractor and started giving him fist blows and damaged the roof of the tractor and also broke the headlights of the tractor. According to him,

when he along with his brother Jagdev Singh tried to save Harbhajan Singh from the clutches of accused, accused Nand Lal, Binder Ram and Ram Chand caught hold of him. Ram Chand gave a *gandasa* blow on his face with the sharp side, which corresponds to injury No.3 above. Nand Lal gave a slung blow on the right side of his head, which corresponds to injury No.1. Binder Ram gave a blow of reverse side of *gandasa* on his chest, which corresponds to injury No.2. He further states that accused Hema Ram, Bija Ram, Gopal Ram and Janta Ram chased and gave injuries to his brother Jagdev Singh and caused injuries to him also. The said injuries are not elaborated by him.

First of all, this Court is to examine as to whether the injuries are corroborated by the medical evidence or not? Injury No.1 on the person of Gurjit Singh is attributed to Nand Lal given with slung. Injury No.1 is a lacerated wound on the left parietal region. Active bleeding was present. The slung could cause such lacerated wound injury. Injury No.2 is alleged to have been given with the reverse side of *gandasa* by Binder Ram. This injury could also be caused with the reverse side of *gandasa*. Injury No.3 is alleged to have been given by Ram Chand with *gandasa*. So far as injury No.3 is concerned, its dimension is 6cmx 2 cm. Initially, the doctor did not report that any incisor was missing. Injury was kept for dental opinion. Supplementary MLR was issued five days later i.e. on 18.11.2010 and the incisor was reported to be missing. It was also recorded that there is a poor oral dental hygiene. That is why it was kept for dental opinion. Injury No.3 shows that underline tissue was

lacerated at the left lower canine. *Gandasa* is a heavy weapon and if its blow is given with full force, it is likely to cause much more serious injury than injury No.3. Moreover, initially, incisor was not reported to be missing and it was reported to be missing five days later vide supplementary MLR. Therefore, the manner and causing of injury No.3 becomes doubtful.

Now, coming to the statement of Jagdev Singh. According to Jagdev Singh, Ram Chand had raised *lalkara* for teaching a lesson to the complainant party for not vacating the land. According to Jagdev Singh, he along with his brother Gurjit Singh stepped forward to stop the accused. On this, accused Tarsem Lal @ Handle and unidentified person forcibly pulled down his maternal grandson (Harbhajan Singh) from the tractor and started grappling with him and caused fist blows. They also damaged headlights and the roof of the tractor. Ram Chand, Binder Ram and Nand Lal started beating Gurjit Singh. He did not give the details of injuries given to his brother Gurjit Singh. He stated that when he ran towards the village, he was caught hold by Bija Ram, Janta, Gopal Ram and Hema Ram @ Hem Raj in the fields of Jugraj Singh son of Jagir Singh. According to statement of Jagdev Singh injured, Gopal Ram gave a blow of reverse side of *gandasa* on his head, which corresponds to injury No.1. Janta gave a hockey blow on his left ear, which is likely to correspond to injury No.2. Gopal Ram then gave a blow of reverse side of *gandasa* on his right arm below the elbow, which corresponds to injury No.3. Bija Ram gave a hockey stick blow on his left leg. Again said Bija Ram gave two hockey blows thrust wise

on the face of the complainant which corresponds to injuries No.2, 4 and 5. Hema Ram gave the blow of *gandasa* on his left leg. One injury No.6 may correspond to the said injury. However, the said injury is red abrasion and cannot be caused with sharp object like *gandasa*. Injury No.4 could be result of injury on the face. Dr. Seema Garg has further stated that patient Jagdev Singh had left the hospital 20.11.2010 against medical advice.

Undisputedly, there was a civil dispute between the parties regarding the land. The copy of the judgment of civil suit between the parties is on file. It is not disputed that the complainant party has lost the litigation regarding the said land. It would mean that the complainants were aggrieved of losing the civil dispute and any minor occurrence can be exaggerated by them to rope in several members of the opposite party so as to put pressure on them for compromise. In addition to this, there is a delay in recording the FIR.

Then the statement of Vinod Kumar, SP Intelligence (PW8) shows that he conducted an inquiry and found Hema Ram @ Hem Raj and Bija Ram @ Vijay Kumar sons of Binder Ram to be innocent. Nothing much could be found out from the cross-examination of the said witness to show that the inquiry conducted by him was not fair.

Third person Tarsem Lal was also not challaned by the police on the ground that during investigation he was found innocent by the police.

Keeping in view the said facts and the plea of the accused and also considering the defence evidence of Harvinder Singh, JE

regarding the presence of Tarsem Lal at duty, at the time of occurrence, it has to be held that the prosecution case against Tarsem Lal, Hem Raj @ Hem Ram and Bija Ram @ Vijay Kumar is highly doubtful and not proved beyond all reasonable doubts.

There is a tendency in this part of the country that whenever some occurrence takes place, a member of the family of the opposite party, who is in service, is the first target.

So far as Ram Chand is concerned, he is also working as Assistant Lineman. Keeping in view the delay, the possibility of his false implication also cannot be ruled out.

Injury No.3 on the person of Gurjit Singh is also doubtful as initially, the doctor did not report about the missing incisor but five days later, supplementary MLR was issued to report that incisor was missing and offence under Section 326 IPC was added. Therefore, Ram Chand also has to be given benefit of doubt.

Now, coming to the offence under Section 307 IPC. It is alleged that two guns of the complainant party, which were lying in the Maruti car, were stolen and two of the accused fired two shots each and the complainant party was able to lay down in the drain and able to save themselves. The site plan (Ex.PW5/A) does not show any drain. However, the site plan prepared by police at the spot (Ex.PW8/1) shows one drain. The investigating officer, who conducted the spot inspection on the next day of the occurrence, did not find any pallets at the spot. Pallets did not hit anybody nor it hit the tractor and the car parked at the spot. No wad was also found at the spot. Even if, it is assumed that the pallets being smaller in size

could not be recovered but the wad falls immediately, near the place where the shot is fired. Moreover, when a double barreled gun is fired, the radius of the pellets spread with the distance and it cannot be believed that the pellets will not hit anybody, much less, the two vehicles parked at the spot. The lower Court disbelieved the prosecution story regarding theft of the said guns and acquitted the accused under Section 379 IPC and 25 of the Arms Act, 1959.

Therefore, I am of the view that the story of the accused firing gun shots is nothing but exaggeration. Consequently, it has to be held that offence under Section 307 IPC is also not proved. Keeping in view the doubtful nature of injury No.3 on the person of Gurjit Singh, stated to be grievous in nature, offence under Section 326 IPC is also not proved beyond all reasonable doubts. However, said injured is certainly covered under Section 324 IPC.

However, I am of the view that the facts and circumstances, which include the damage to the Maruti car and tractor and the finding of blood stained earth at the spot and the chappals of one of the injured and coupled with some injuries shows that some occurrence had taken place, which had been twisted and exaggerated by the complainant party. Even ASI Sukhpal Singh has stated that at the time of his visit, Jagdev Singh and Gurjit Singh were found talking to each other. Both of them got 24 hours to put forward a coloured version before the police.

Even though some of the injuries caused by the accused Gopal Ram and Janta @ Gurjant Singh are not exactly corroborated but their participation in the crime is proved beyond all reasonable

doubts.

As a result of the foregoing discussion, accused Ram Chand, Hema Ram @ Hem Raj, Bija Ram @ Vijay Kumar and Tarsem Lal are acquitted of all the charges framed against them giving them benefit of doubt. Remaining accused, namely, Binder Ram, Nand Lal, Gopal Ram and Janta Singh are also acquitted of the charges under Section 307 IPC. However, their conviction under Section 323, 148, 427 read with Section 149 and 506 read with Section 34 IPC in place of Section 149 IPC is maintained. Since the grievous injury on the person of Jagdev Singh complainant is not proved beyond all reasonable doubts, therefore, conviction of the accused Binder Ram, Nand Lal, Gopal Ram and Janta Singh @ Gurjant Singh under Section 326 IPC is set aside and instead they stand convicted under Section 324 IPC read with Section 34 IPC and are sentenced to undergo rigorous imprisonment for one year and fine of Rs.1000/-, in default thereof, further undergo rigorous imprisonment for one month under Sections 324/34 IPC.

The sentence passed upon the said accused under Section 323, 148, 427, 506 read with Section 34 IPC in place of Section 149 IPC is maintained.

Accordingly, CRA No.S- 2889-SB of 2014 qua appellants Ram Chand, Hema Ram @ Hem Raj, Bija Ram @ Vijay Kumar is allowed and qua remaining accused it is partly allowed and partly dismissed with above noted modification. CRA No.S- 2834-SB of 2014 filed by Tarsem Lal is allowed.

As per custody certificates dated 17.3.2016, Binder Ram

has undergone 1 year 7 months and 22 days, Gopal Ram has undergone 1 year 7 months and 3 days and Nand Lal has undergone 1 year 1 month and 14 days i.e. more than one year sentence now awarded to them. Their bail bonds and surety bonds be discharged. However, Janta Singh @ Gurjant Singh has undergone 6 months and 19 days i.e. 7 months and 3 days as on today. Accordingly, he be arrested to undergo the remaining period of sentence. Since, appellants Ram Chand, Binder Ram and Gopal Ram are in custody, they be released forthwith.

31.03.2016*gk***(Kuldip Singh)
Judge**