

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

**Criminal Appeal S-3019-SB of 2014
Date of Decision: February 19, 2016.**

Gurpreet Singh @ Hawara		Appellant
	Versus	
State of Punjab		 Respondent

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

Present : Mr. N.S.Diwana, Advocate for
Mr. Siddharth Gupta, Advocate
for the appellant.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

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

The appellant was tried for committing offences punishable under Sections 307 and 506 IPC and Section 25 of the Arms Act. Vide judgment and order dated 3.5.2014, learned Additional Sessions Judge, Bathinda, convicted him under Section 307 IPC and sentenced him to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs. 25,000/- and in default of payment of fine, to further undergo rigorous imprisonment for six months. He was also convicted under Section 25 of the Arms Act and sentenced to undergo rigorous imprisonment for three years and to pay a fine a Rs.5,000/- and in default thereof, to further undergo rigorous

imprisonment for six months. Both the sentences were ordered to run concurrently. The period, for which, he remained in custody during the investigation and trial of the case was ordered to be set off against the period of sentence awarded to him in the case.

The case of the prosecution, as noted by the trial Court in the impugned judgment of conviction and sentence, is as under:-

“That on 3.4.2012 one telephonic message was received from DMC, Ludhiana that Ramandeep Sharma son of Manjit Lal is admitted in the hospital due to bullet injuries suffered by him and IO be sent. Upon this, ASI Sukhdev Singh along with police party reached DMC, Ludhiana where they obtained the opinion of Doctor regarding fitness of Ramandeep Sharma for recording his statement and the doctor declared the injured fit to make statement. Then ASI Sukhdev Singh recorded the statement of Ramandeep Sharma, to the effect that he is resident of village Bhodipura and they are two brothers. The name of his brother is Gagandeep Sharma, who runs the shop of mobile repair and sale at the Bus stand of their village. On 01.4.2012 as per their routine, he and his brother closed their shop and came home. At about 7.30 P.M., he was standing in front of gate of his house. There Gurpreet Singh @ Hawara son of Balbir Singh came near to him and started abusing

him. Complainant stopped him from doing so. On hearing abuses, his brother Gagandeep Sharma and mother Swaranjit Kaur came out of the house and both of them and the complainant stopped Gurpreet Singh from abusing. Accused also threatened the mother and brother by saying that he will kill the complainant. Then he took out pistol from his trouser and fired a bullet pointing towards the complainant, with the intention to kill him. The bullet hit the left side of chest of complainant and the complainant fell on the ground. Thereafter accused ran away from the spot with his pistol while giving threats to the mother and brother of complainant. Then, Gagandeep Sharma, brother of complainant arranged vehicle and got him admitted at Adesh Hospital, Bhucho Mandi. However finding his condition serious, he was referred to DMC, Ludhiana where he is under treatment. IO recorded the statement of complainant and read over and explained it to the complainant, who admitted its correctness. Thereafter, IO came to the police station and got registered the FIR and visited the place of occurrence and prepared site plan. IO also lifted blood stained earth from the spot and took the same into police possession, after preparing parcel.

On 20.4.2012 accused was arrested and weapon of offence was recovered by the police of P.S. Kallianwali, and even an FIR No. 93 dated

20.4.2012 under Sections 399, 402 IPC and 25, 54, 59 Arms Act of P.S. Kallianwali, was registered against the accused in said police station. On completion of investigation and other formalities, challan was presented in the Court.”

Learned counsel for the appellant states that he does not challenge the impugned judgment of conviction passed by the trial Court. However, he states that during the pendency of the appeal, the matter between the parties has been amicably settled. In this regard, he had placed on record joint affidavit dated 19.1.2016 executed by complainant Ramandeep Sharma, his brother Gagandeep Sharma and mother Swaranjit Kaur @ Charanjit Kaur which was taken on record as Annexure A1. It is submitted that the compromise has been arrived at between the parties at the intervention of the respectables of the village.

Complainant Ramandeep Sharma, his brother Gagandeep Sharma and mother Swaranjit Kaur @ Charanjit Kaur are present in the Court. All of them have got recorded their respective statements and vouch-safed the factum of compromise having been arrived at between the parties. They have also stated that they have no objection, if any benefit accruing out of the compromise is extended to the appellant.

As per the custody certificate already brought on record by the learned State counsel, the appellant had undergone an actual period of two years, eight months and twenty three days as on 20.1.2015 besides earning remissions of six months and twenty eight days. After 20.1.2015 also, the appellant continues to remain behind the bars and, therefore, by now, served a period of about three years and ten months beside earning remissions of more than six months.

It is true that offences under Section 307 IPC and Section 25 of the Arms Act are not lawfully compoundable. However, in view of the compromise arrived at between the parties, the factum of compromise can be considered as a mitigating circumstance in awarding the sentence of imprisonment to the appellant.

Taking into consideration the totality of the circumstances, this Court is of the considered view that the sentences of imprisonment imposed upon the appellant on both the counts can be reduced to the one already undergone by him.

Resultantly, the conviction of the appellant for the offences under Section 307 IPC and 25 of Arms Act is upheld. The sentences of imprisonment imposed upon the appellant on both the counts shall stand reduced to the one already undergone

by him. The sentences of fine along with their default clauses are,
however, upheld.

The appeal is, accordingly, disposed of.

February 19, 2016
amit rana

(T.P.S. MANN)
JUDGE