

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

**Criminal Appeal S-3812-SB of 2014
Date of Decision: September 8, 2016**

Hakam Singh and another	Versus	Appellants
State of Punjab		 Respondent

Criminal Appeal S-4061-SB of 2014

Mahant Parmod Giri	Versus	Appellant
State of Punjab		 Respondent

Criminal Appeal S-4064-SB of 2014

Mahant Suraj Giri	Versus	Appellant
State of Punjab		 Respondent

Criminal Appeal S-4484-SB of 2014

Surjit Singh	Versus	Appellant
State of Punjab		 Respondent

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

Present : Mr. R.S.Rai, Senior Advocate, with
Mr. Anurag Arora, Advocate for the appellants
in Criminal Appeal S-3812-SB of 2014.

Mr. Sunil Agnihotri, Advocate
for the appellants
in Criminal Appeal S-4061-SB of 2014 and
Criminal Appeal S-4064-SB of 2014.

Mr. Ajay Pal Singh, Advocate
for the appellant
in Criminal Appeal S-4484-SB of 2014.

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

T.P.S.MANN, J.

Hakam Singh, Bant Singh, Mahant Parmod Giri, Mahant Suraj Giri and Surjit Singh besides Harphool Singh were tried for committing offences punishable under Sections 148/302/452/324/323/506 read with Section 149 IPC. During the trial of the case, accused Harphool Singh passed away. Vide judgment and order dated 25/26.8.2014, learned Additional Sessions Judge, Ludhiana, acquitted the remaining accused under Section 302 IPC. Instead, they were convicted under Section 304 Part II IPC. Besides, they were also convicted under Sections 450, 324, 148 read with Section 149 IPC and sentenced as below:-

- (i) Hakam Singh and Bant Singh were convicted under Section 304 Part II IPC and sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs.10,000/- each and in default of payment of fine, to further undergo

rigorous imprisonment for one year whereas Mahant Parmod Giri, Mahant Suraj Giri and Surjit Singh were convicted under Section 304 Part II read with Section 149 IPC and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.10,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for one year;

(ii) Mahant Parmod Giri was convicted under Section 324 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for three months whereas Hakam Singh, Bant Singh, Mahant Suraj Giri and Surjit Singh were convicted under Section 324 read with Section 149 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.5,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for three months;

(iii) All of them were convicted under Section 148 IPC and sentenced to undergo rigorous imprisonment for three years each; and

(iv) All of them convicted under Section 450

IPC and sentenced 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 one year.

All the sentences were ordered to run concurrently and the period spent by them behind the bars during the investigation/trial was ordered to be set off against their substantive sentences.

Aggrieved of their conviction and sentences, Hakam Singh and Bant Singh preferred Criminal Appeal S-3812-SB of 2014, Mahant Parmod Giri preferred Criminal Appeal S-4061-SB of 2014, Mahant Suraj Giri preferred Criminal Appeal S-4064-SB of 2014 and Surjit Singh preferred Criminal Appeal S-4484-SB of 2014. As all the appeals arise out of one and the same judgment of conviction and sentence passed by the learned trial Court, they are being disposed of by a common judgment.

According to the prosecution on 14.4.2007, Joginder Singh got recorded his statement to the effect that on 12.4.2007, he along with his wife Daljit Kaur, son Gurpartap Singh and brother-in-law Ranjit Singh was sitting in the courtyard of his house. In the meantime, the accused, namely, Hakam Singh, Surjit Singh, Bant Singh, Harphool Singh, Zora Singh, Mahant

Parmod Giri, Mahant Suraj Giri and Mahant Chhappan Giri, all armed with iron rods, forcibly entered his house. Hakam Singh gave a blow with the rod on the deltoid portion of his left arm whereas Bant Singh gave a blow on his left leg near the ankle. As a result, he fell down. Harphool Singh gave iron rod blows on the left hand and also on the head of his wife Daljit Kaur. Zora Singh gave a rod blow on the right shoulder of Daljit Kaur. The accused also caused injuries to his son Gurpartap Singh and brother-in-law Ranjit Singh before fleeing from the spot. The injured were shifted to Civil Hospital, Khanna for medical treatment.

It is further the case of the prosecution that on the statement made by Joginder Singh, case was registered under Sections 324/323/452/148/149 IPC. A cross-case already stood registered on the statement of Mahant Suraj Giri against the complainant party under Sections 323/341/506/34 IPC. Sub-Inspector Balkar Singh along with other police officials visited the spot and prepared rough site plan. Blood stained earth was lifted from the spot and converted into parcel. Further investigation was conducted by ASI Rajnish Kumar. Injured Joginder Singh was referred to Rajindra Hospital, Patiala, where he succumbed to his injuries on 26.4.2007. Accordingly, offence under Section 302 IPC was also added to the case against the accused.

During the investigation, initially charges under

Sections 452/302/324/323 IPC were framed against Mahant Parmod Giri and Mahant Suraj Giri. Thereafter, on an application having been moved under Section 319 Cr.P.C., Harphool Singh (since dead), Surjit Singh, Hakam Singh and Bant Singh were summoned as additional accused and after procuring their presence, charges under Sections 148/302/450/324/323/506 read with Section 149 IPC were framed against the accused, to which, they pleaded not guilty and claimed trial.

Learned counsel for the appellants have not challenged the impugned judgment of conviction passed by the learned trial Court. They have, however, submitted that the appellants are facing the agony of criminal prosecution for the last more than nine years. Out of the sentence of ten years imposed upon Hakam Singh and Bant Singh appellants, they have already undergone an actual sentence of about four years. Mahant Parmod Giri and Mahant Suraj Giri, appellants, who have been sentenced to undergo imprisonment for seven years have undergone an actual period of more than three years and one month whereas Surjit Singh appellant has undergone an actual period of more than five months. None of the appellants is involved or convicted in any other criminal case. It is also submitted that during the investigation of the case Hakam Singh, Bant Singh and Surjit Singh appellants were found innocent and

they were later on summoned under Section 319 Cr.P.C. as additional accused. At the stage of trial, age of Bant Singh appellant was recorded as 74 years and of Surjit Singh as 67 years. It is also submitted that when Joginder Singh was medico-legally examined, only two injuries were noticed on his person, one of them was on his right leg above the ankle joint while the other on his left arm. He had died after about two weeks of the occurrence. No injury was caused on any vital part of the deceased. PW12 Dr. Kulbir Singh, who had admitted Joginder Singh in the emergency ortho ward at Rajindra Hospital, Patiala testified that as per the medical record at point 'a' on the reference slip Ex.PW12/A mention had been made that Joginder Singh was a heart patient. Since, there was no injury on any vital part of Joginder Singh, the injuries suffered on his leg and arm could not be said to have been given with an intention to kill him. While conducting the post-mortem on the dead body of Joginder Singh, PW2 Dr. K.K.Aggarwal, noted the age of the deceased as eighty years. The cause of death was described to be secondary shock as a result of fracture of multiple long bones. During his cross-examination, he admitted that the deceased was having an enlarged heart and, accordingly, he had sent the heart of the deceased for histopathological examination. As per the report of histopathology, the thickness of left ventricular of the deceased

was 2 cm against normal thickness of 1.3 cm to 1.5 cm. The doctor, however, did not specifically reply to the question put to him whether the cause of death was due to natural cardiac arrest. He only stated that he could not say whether the cause of death was due to natural causes, i.e. due to natural cardiac arrest. He also admitted that as per histopathology report and due to heart disease, the deceased was a strong candidate for sudden cardiac arrest due to ventricular arrhythmias. It is also submitted that PW4 Gurpartap Singh admitted during his cross-examination that on 26.4.2007 in the morning his father Joginder Singh was discharged from Rajindra Hospital, Patiala on his request, under his signatures and at his responsibility. Although he denied that during the shifting of his father from Rajindra Hospital to P.G.I. Chandigarh, he developed cardiac problem in the form of general chest pain, breathlessness or that he was again admitted in Rajindra Hospital but he admitted that his request for discharge of his father was accepted by Rajindra Hospital at 9.30 a.m. Meaning thereby that when the request was accepted, the patient was taken out from Rajindra Hospital but when he suffered cardiac problem, he was again brought back to Rajindra Hospital and admitted there on 26.4.2007 at about 12.15 p.m. and then he died due to heart attack.

Request has, accordingly, been made for setting aside

the remaining sentences of imprisonment of the appellants.

Learned State counsel has vehemently opposed the prayer made on behalf of the appellants by submitting that Joginder Singh had breathed his last on account of suffering of injuries at the hands of Hakam Singh and Bant Singh appellants. According to him, sentences of imprisonment imposed upon the appellants are commensurate with the crime committed by them.

Custody certificates in respect of Hakam Singh and Bant Singh have been produced by the learned State counsel. As per the same, Hakam Singh has undergone an actual sentence of four years and seventeen days, which included the remissions earned by him whereas Bant Singh appellant has undergone an actual sentence of three years, eleven months and twenty eight days. Similarly, as per the custody certificates already brought on record in respect of Mahant Parmod Giri and Mahant Suraj Giri appellants, each one of them has undergone an actual period of three years, one month and sixteen days. In the custody certificate in respect of Surjit Singh appellant, which is available on the record, it stands mentioned that he had also undergone actual period of five months and five days. Further, none of the appellants is either shown to be involved or convicted in any other criminal case.

Taking into consideration the totality of the

circumstances, this Court is of the view that no useful purpose will be served by requiring the appellants to undergo their remaining substantive sentences of imprisonment. Ends of justice shall be suitably met, if their substantive sentences of imprisonment are reduced to the one already undergone by them. At the same time, the fine imposed upon them for the offence under Section 304 Part II IPC can be suitably enhanced so as to compensate the legal heirs of deceased Joginder Singh.

Resultantly, the conviction of the appellants, as recorded by the trial Court is upheld. Their substantive sentences of imprisonment on all the counts are reduced to the one already undergone by them. The fine imposed upon Mahant Parmod Giri under Section 324 IPC and on the remaining appellants under Section 324 read with Section 149 IPC along with its default clauses are maintained. Similarly, the fine of Rs.5,000/- imposed upon each of the five appellants for the offence under Section 450 IPC along with its default clause is also maintained. The fine of Rs.10,000/- imposed upon Hakam Singh and Bant Singh appellants for the offence under Section 304 Part II IPC is enhanced to Rs.50,000/- and in default thereof, they shall undergo rigorous imprisonment for two years. Similarly, the fine of Rs.10,000/- imposed upon Mahant Parmod Giri, Mahant Suraj Giri and Surjit Singh appellants for the offence under Section

304 Part II IPC read with Section 149 IPC is enhanced to Rs.20,000/- and in default thereof, to undergo rigorous imprisonment for one year. The entire amount of fine, on its deposit by the appellants shall be disbursed to the legal heirs of deceased Joginder Singh, as compensation.

All the four appeals are, accordingly, disposed of.

September 8, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No