

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

**Criminal Appeal S-1266-SB of 2003
Date of Decision: January 25, 2016**

Mauja Singh and othersAppellants
Versus
The State of Punjab Respondents

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

Present : Mr. S.C.Chhabra, Advocate
for the appellants.

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

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

The appellants along with Jagir Singh, Gurbachan Singh and Kakkan Singh were tried for committing offences punishable under Sections 326/325/324/323/148/149/193/195/148 IPC. During the trial of the case, Jagir Singh and Gurbachan Singh died and, accordingly, proceedings against them were dropped. Vide judgment and order dated 4.7.2003, learned Additional Sessions Judge, Fast Track Court, Ferozepur convicted the appellants and Kakkan Singh for committing offences under Sections 325/324/323/149 and 148 IPC. Keeping in view the fact that Kakkan Singh was more than sixty five years of age and was stated to be a patient of T.B., because of which, he had become very weak and was also unable to walk

properly, the trial Court, instead of sentencing him, ordered his release on probation under Section 4(1) of the Probation of Offenders Act subject to his executing personal bond in the sum of Rs.10,000/- with one surety in the like amount with an undertaking to be of good behaviour and to maintain peace and tranquility for a period of six months, failing which, he was to surrender in the Court and to receive the sentence. He was also ordered to pay an amount of Rs.1,100/- towards litigation expenses. On the other hand, the appellants were convicted and sentenced as follows:-

Name of the Convicts	Under Sections	Rigorous Imprisonment	Fine	In default of fine payment of fine
(1) Mauja Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of 2 months.
	323 IPC	6 months (two counts)		
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months (Three counts)
	323/149 IPC	6 months (Four counts)		
(2) Piara Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of two months
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months (Three counts)
	323/149 IPC	6 months (four counts)		
(3) Banta Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of 3 months.
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months (Three counts)

	323/149 IPC	6 months (four counts)		
(4) Surjit Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of 2 months.
	325 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months.
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months. (Two counts)
	323 IPC	6 months	-	-
	323/149 IPC	6 months (four counts)		
(5) Desa Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of 2 months.
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months. (Three counts).
	323/149 IPC	6 months (four counts)		
	323 IPC	6 months	-	-
(6) Kartar Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of two months.
	323/149 IPC	6 months (Four counts)		
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months (Three counts).
(7) Veer Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of two months.
	323/149 IPC	6 months (Four counts)		
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months. (Three counts).
(8) Hazara Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of 2 months.
	325 IPC	3 years	Rs.300/-	To further undergo R.I. for

				a period of three months.
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months. (Two counts.)
	323 IPC	6 months	-	-
	323/149 IPC	6 months (Four counts)		
(9) Harmesh Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of two months.
	323/149 IPC	6 months (Four counts)		
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months. (Three counts).
(10) Gurdip Singh	148 IPC	1 ½ years	-	-
	324/149 IPC	1 ½ years	Rs.200/-	To further undergo R.I. for a period of 2 months.
	323/149 IPC	6 months (four counts)		
	325/149 IPC	3 years	Rs.300/-	To further undergo R.I. for a period of 3 months. (Three counts).

All the sentences were ordered to run concurrently. The period of detention, if any, already spent by the appellants during the investigation, enquiry and trial of the case was ordered to be set off against the sentences of imprisonment awarded to them.

When the appeal came up for a hearing on March 11, 2015, learned counsel for the appellants informed the Court that appellants Nos. 8 and 9, namely, Kartar Singh and Banta Singh had died during the pendency of the appeal and, therefore, the appeal

qua them stood abated. Learned counsel for the State, accordingly, prayed for time to verify the said fact.

On the last date of hearing, i.e. 11.1.2016, learned State counsel produced the status report prepared by the Station House Officer, Police Station Sadar Jalalabad (West), wherein, it was mentioned that aforementioned Kartar Singh and Banta Singh had since died.

Learned counsel for the appellants has submitted that the surviving appellants, namely, Mauja Singh, Piara Singh, Hazara Singh, Surjit Singh, Gurdip Singh, Vir Singh, Desa Singh and Harmesh Singh stand convicted and sentenced for the various offences, which offences, at the most entail punishment upto seven years. These appellants are not previous convicts. Out of them, appellant Mauja Singh was aged seventy one years at the trial of the case whereas the remaining appellants were in their thirties and forties. It is also submitted that the appellants have been facing the agony of criminal prosecution for the last more than twenty two years. They are on bail during the pendency of the appeal. They have not misused the concession in any manner. It is also submitted that on the side of the appellants, namely, Hazara Singh, Harmesh Singh, Jagir Singh, Makhan Singh and Gurdeva Bibi had received injuries on their persons during the occurrence. Those injuries included fractures of right fore-arm of Hazara Singh, nose of Harmesh Singh and left lower leg of Makhan Singh. In view of the

same, the surviving appellants also deserve to be released on probation.

Learned State counsel has opposed the prayer made on behalf of the appellants by submitting that in the occurrence in question they had caused injuries to four persons, namely, Sulakhan Singh, Joginder Kaur, Jagir Singh and Jamna Bibi. Four of those injuries were found to be grievous in nature. Therefore, the surviving appellants did not deserve any leniency in the matter of sentences of imprisonment.

After taking into consideration the totality of the circumstances and the fact that the surviving appellants are not previous convicts; they have been facing agony of criminal prosecution for the last more than twenty two years, there were five persons injured on the side of the appellants and the trial Court had already extended the benefit of probation to Kakkan Singh, co-convict of the appellants, a case is made out for extending the benefit of probation to the surviving appellants as well.

Resultantly, the conviction of the appellants, namely, Mauja Singh, Piara Singh, Hazara Singh, Surjit Singh, Gurdip Singh, Vir Singh, Desa Singh and Harmesh Singh, as ordered by the trial Court is maintained. However, their substantive sentences of imprisonment are set aside. Instead they are ordered to be released on probation under Section 4 (1) of the Probation of Offenders Act subject to each of them executing personal bonds in the sum of Rs.10,000/- with one surety in the like amount with an undertaking to

be of good behaviour and to maintain peace and tranquility for a period of six months and not to commit any other offence during the said period, failing which, they will appear before the Court and receive the sentence. The bonds be furnished to the satisfaction of the Chief Judicial Magistrate, Ferozepur. The various amounts of fine imposed upon the said appellants shall be treated as costs of litigation. Apart from the same, each of the surviving appellants shall also deposit an amount of Rs.5,000/- each with the Chief Judicial Magistrate within three months from today, which shall, thereafter, be disbursed to the four injured as compensation in equal shares. The appeal of the surviving appellants is, accordingly, disposed of.

The appeal of appellants Nos. 8 and 9, namely, Kartar Singh and Banta Singh, is disposed of having abated.

January 25, 2016

amit rana

**(T.P.S. MANN)
JUDGE**