

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

**Criminal Appeal S-2107-SB of 2003
Date of Decision: August 30, 2016**

Jagtar Singh and others	Versus	Appellants
State of Haryana		 Respondent

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

Present : Mr. Jagjit Gill, Advocate
for the appellants.

Mr. Ashok S. Chaudhary, Addl. A.G. Haryana.

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

The appellants, namely, Jagtar Singh, Malkiat Singh @ Kittu, Balvinder and Jagdev along with Kulvinder and Kala were tried for committing offences punishable under Sections 307/34 IPC. During the trial of the case, Kala @ Mukhtiar Singh and Kulvinder Singh died and, accordingly, proceedings against them were dropped. Vide judgment and order dated 28.10.2003, learned Additional Sessions Judge, Fatehabad, convicted the aforementioned appellants under Sections 307/34 IPC and sentenced them to undergo rigorous imprisonment for five years and to pay a fine of Rs.2,500/- each and in default of payment of fine, to undergo further rigorous imprisonment for one year. The

period of their judicial custody, if any, was ordered to be set off against their substantive sentence awarded to them.

The case of the prosecution, in nutshell, is that on 15.8.1998 at about 11.00 p.m., when Sukhvinder Singh PW9 was going home after watching a movie, the accused while armed with gandasis, knife and lathis dragged him. They gagged his mouth with the turban, which he was wearing and forcibly took him to the fields of Gian Chand, Numberdar where Jagdev Singh @ Bhola and Balvinder Singh accused were already present, who asked their co-accused to kill Sukhvinder Singh. Jagtar Singh and Malkiat Singh @ Kittu gave gandasi blows on the face, head and neck, Kala gave a lathi blow while Kulvinder inflicted a knife blow on the back of his right shoulder. The said accused also inflicted another knife blow near the same place. The accused, thereafter, ran away from the spot. The occurrence was witnessed by Smt. Harbans Kaur, mother of Sukhvinder Singh and Swaran Singh, maternal uncle of Sukhvinder Singh.

Having heard learned counsel for the parties and on going through the evidence available on record, this Court finds that the prosecution has been able to establish its case against the accused beyond reasonable doubt. Sukhvinder Singh, who had received injuries in the occurrence in question while stepping into the witness box as PW9 testified about the manner, in which, he was caused injuries by the accused. His testimony stands

corroborated by Swaran Singh, his maternal uncle, who appeared as PW8. The ocular account is corroborated by the medical evidence by way of testimony of PW10 Dr. N.K.Goyal, who had medico-legally examined Sukhvinder Singh on 16.8.1998 at 6.15 a.m. and found as many as 17 injuries on his person. 15 of those injuries were said to be the result of sharp edged weapons while two with blunt weapons. The said doctor also proved his opinion Ex.PL/1 to the effect that the injuries No. 1 to 15 on the person of Sukhvinder Singh were caused by sharp edged weapons and on his vital part, i.e. head. Further, all the injuries collectively could have endangered the life of the patient, if remained untreated. Under these circumstances, no case is made out for any interference in the conviction of the appellants other than Balvinder, who died during the pendency of the appeal, which fact stood duly verified by Sh. Ganga Ram Punia, IPS, Assistant Superintendent of Police (HQ), Fatehabad, who placed on record his affidavit and also appended the death certificate with the same. With the death of Balvinder Singh appellant his appeal is required to be disposed of as having abated.

As regards the question of sentence, it may be noticed that the surviving appellants have been facing the agony of criminal prosecution for the last about eighteen years. None of them is shown to be either involved or convicted in any other case. Jagdev Singh appellant was not shown to be armed with

any weapon and he alongwith Balvinder Singh (since deceased) was said to have exhorted his co-accused. He was found innocent during the investigation and subsequently summoned under Section 319 Cr.P.C. as an additional accused. As per the custody certificates already brought on record by the learned State counsel, Jagtar Singh appellant has undergone an actual sentence, including the period of remission, of one year, six months and twenty seven days, Malkiat Singh @ Kittu has undergone one year, five months and seventeen days whereas Jagdev has undergone five months and twenty two days. All the surviving appellants are on bail for the last about twelve years. There is no material on the record that after being granted the concession of bail, anyone of the surviving appellants has misused the concession.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the surviving appellants behind the bars, once again, for undergone 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 of Rs.2,500/- imposed upon each of them can be enhanced so as to suitably compensate the injured, namely, Sukhvinder Singh.

Resultantly, the appeal of appellant No. 3-Balvinder is

Criminal Appeal S-2107-SB of 2003

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disposed of as having abated. The conviction of appellants Jagtar Singh, Malkiat Singh @ Kittu and Jagdev under Sections 307/34 IPC is upheld. However, their substantive sentences of imprisonment are reduced to the one already undergone by them. At the same time, the fine of Rs.2,500/- imposed upon Jagtar Singh and Malkiat Singh @ Kittu appellants is enhanced to Rs.40,000/- each whereas fine of Rs.2,500/- imposed upon Jagdev appellant is enhanced to Rs.20,000/-. The entire amount of fine be deposited by Jagtar Singh, Malkiat Singh @ Kittu and Jagdev appellants before the learned Chief Judicial Magistrate, Fatehabad within three months from today failing which they shall be required to undergo rigorous imprisonment for two years. The entire amount of fine, if deposited by the surviving appellants be disbursed to injured Sukhvinder Singh, as compensation. The appeal of Jagtar Singh, Malkiat Singh @ Kittu and Jagdev is, accordingly, disposed of.

August 30, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No