

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

**Criminal Appeal D-185-DB of 2004**

Date of Decision : July 06, 2017

Raj Pal and others

....Appellants

**Versus**

State of Haryana

....Respondent

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN  
HON'BLE MR. JUSTICE HARI PAL VERMA**

Present : Mr. K.D.S. Hooda, Advocate  
for the appellants.

Mr. Praveen Bhadu, Assistant A.G., Haryana.

Mr. Manjeet Singh, Advocate  
for the complainant.

**T.P.S. MANN, J.**

The appellants, namely, Raj Pal, Ram Kishan, Nihali and Kitabo were tried for committing the offences punishable under Sections 302/326/323/34 IPC for intentionally causing the death of Vinod, causing grievous hurt to Gurdev Singh and causing hurt to Jogi Ram. Vide impugned judgment and order dated 7.2.2004, learned Additional Sessions Judge-I, Kaithal convicted Raj Pal under Section 302 IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.10,000/- and in default of payment of fine, to further undergo imprisonment for a period of one year. Ram Kishan was convicted under Section 326 IPC and sentenced to undergo rigorous imprisonment for a

period of seven years and to pay a fine of Rs.5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months. Nihali and Kitabo were convicted under Section 323 IPC and sentenced to undergo rigorous imprisonment for a period of one year each. The period for which the appellants remained in custody during investigation and trial of the case was ordered to be set off against the substantive sentence awarded to them.

Aggrieved of their conviction and sentence, the appellants filed the present appeal, which was admitted and notice issued to the State. Besides, the trial Court record stands requisitioned. Jogi Ram complainant has also filed Criminal Revision 1127 of 2004 against the appellants praying therein that the sentences of the appellants be enhanced and he be granted compensation on account of death of his son. The said revision stands admitted and ordered to be heard with the present appeal.

According to the prosecution, on 16.6.2000 at about 3.20 a.m., Jogi Ram, resident of village Chosala came present at Police Station Kalayat and got recorded his statement before SI Sube Singh that there was a water tap installed in the street/thoroughfare near the old well in his mohalla. On 15.6.2000 at about 9.00 a.m. when the water tap was running, Kitabo, daughter of Ram Kishan, Chhotu's wife and Pataso, wife of his younger brother Gurdev Singh were filling water from the tap. During filling of water, Pataso and Kitabo quarrelled and called bad names to each other.

Complainant Jogi Ram after counselling them sent them to their respective houses. During the same night at about 9.30 p.m. his brother Gurdev Singh came from the fields on a tractor and parked it in the house. The complainant was sitting on a cot in front of the house of Gurdev Singh. In the meanwhile, Ram Kishan and his son Raj Pal came towards them from their house. Ram Kishan proclaimed that he would teach a lesson to Gurdev Singh for calling bad names and also for not allowing them to fill water. While Gurdev Singh was standing in the street, Ram Kishan and Raj Pal scuffled with him. Ram Kishan inflicted injury with a knife upon Gurdev Singh. When the complainant stepped forward in order to rescue his brother, Kitabo picked up a brick and hit the complainant on his head. Nihali also gave a blow with the brick on the little finger of his right hand. On hearing the commotion, Vinod, son of the complainant, came running. Raj Pal inflicted a knife blow in his left flank. On receiving the knife injury, Vinod fell on the ground at the spot. On hearing the raula, the complainant's brother Bhim Singh and his son Wazir Singh reached the spot and rescued the complainant party from the assailants. All the assailants, while carrying their respective weapons decamped from the spot. When the complainant tried to lift his son Vinod, he noticed that he had already breathed his last. Thereafter, the complainant after leaving his brother Bhim Singh and son Wazir Singh near the dead body of Vinod, got admitted Gurdev Singh in a hospital at Kaithal. The doctor also medico-legally examined the complainant. The complainant while producing the medico-legal report before SI

Sube Singh prayed for taking action against the assailants. He signed his statement in Hindi, which was attested by SI Sube Singh.

It is also the prosecution case that from the statement of Jogi Ram and the medico-legal report dated 16.6.2000 issued in respect of injuries received by Jogi Ram, commission of offences under Sections 323/302/34 IPC was made out and, accordingly, FIR No.81 dated 16.6.2000 (Ex.PK) was registered at 3.20 a.m. against the appellants for the aforementioned offences. Special report was handed over to Constable Balwan Singh, which was delivered to the Ilaka Magistrate on 16.6.2000 at 7.00 a.m. Thereafter, SI Sube Singh reached the spot with the complainant and other police officials. Dead body of Vinod Kumar was found lying at the spot. SI Sube Singh inspected the dead body and prepared inquest report. A photographer was called. The photographs of the dead body of Vinod Kumar were taken. SI Sube Singh prepared rough site plan with correct margins. He recorded the statements of the witnesses. Blood stained earth was lifted from the spot. SI Sube Singh then scribed application and sent the dead body for post-mortem alongwith the inquest proceedings to Civil Hospital, Kaithal. He made search of the accused. HC Joginder Singh produced before him a parcel containing clothes of the deceased and post-mortem report. On return to the Police Station, the case property was deposited with the MHC.

It is further the prosecution case that on 18.6.2000, Ram Kishan and Raj Pal accused were produced before SI Sube Singh by

Satpal and they were arrested. On 19.6.2000 they were produced in the Court and their police remand was sought. Raj Pal accused suffered disclosure statement and got recovered the knife which he had kept concealed in his toori kotha. Similarly, Ram Kishan got recovered a knife which he had kept concealed under the wheat box in the chobara. Jogi Ram PW produced pant of Gurdev injured, which was having dried blood stains. On 22.6.2000, Nihali and Kitabo were arrested. Sealed parcels were sent to the Forensic Science Laboratory for chemical analysis. Upon completion of investigation, final report under Section 173 Cr.P.C. was prepared and submitted before the learned Ilqa Magistrate. The case was, thereafter, committed to the Court of Sessions where Raj Pal was charged for the offence under Section 302 IPC while Ram Kishan, Nihali and Kitabo were charged under Section 302 read with Section 34 IPC. Both Raj Pal and Ram Kishan were also charged under Section 326 read with Section 34 IPC. Further, Nihali and Kitabo were charged under Section 323 read with Section 34 IPC. The accused pleaded not guilty and claimed trial.

In support of its case, the prosecution examined as many as fifteen witnesses.

PW1 Dr. Sukant Kumar Bahera, Senior resident, PGI, Chandigarh, deposed that Gurdev Singh was admitted in PGI on 16.6.2000 with stab injury on the left side of his chest. There were three injuries. All the injuries were on the left lateral chest wall. He corrected himself to state that injury No.3 was in the left axillary

area with a large sub-cutaneous pocket. A chest tube was put in at the time of admission through injury No.2 for draining the blood. On X-ray, haemo-pneumo thorax on the left side and pneumo thorax on the right side of the chest was observed. Another tube was put in the right side of the chest to evacuate the air. The injured was managed conservatively with chest physiotherapy. After improvement in his condition, the tubes were removed on 20.6.2000 and he was discharged on 21.6.2000.

PW2 Dr. B.B. Kakkar, Medical Officer, Civil Hospital, Kaithal deposed that on 16.6.2000 at 9.20 a.m., he had conducted autopsy on the dead body of Vinod and found the following injuries:-

- “1. An incised wound 3.5 cms. x 1 cm. on the left side of the chest just below the nipple in between the 6<sup>th</sup> inter costal space. The clotted blood was present.
2. An incised wound 3.5 cms. x 1 cm. on the left axilla at mid-line. Clotted blood was present.

Both the wounds were elliptical in shape. On exploration pleural cavity was full of blood. Heart was punctured corresponding to injury No.1. Lungs and corresponding structures were punctured corresponding to injury No.2. All the viscera were pale and healthy. Both the chambers of the heart were empty. Stomach and urinary bladder were empty. The small intestine contained chyle. The large intestine contained faecal matter.”

In the opinion of the doctor the cause of death was shock

and haemorrhage as a result of injury to heart and lungs, which was ante-mortem in nature and sufficient to cause death in ordinary course of nature. The time which elapsed between injury and death was minimum and between death and post-mortem it was 6 to 18 hours. He also identified the shirt Ex.P1 and pant Ex.P2, which were removed by him from the dead body and duly sealed. He also opined that injuries No.1 and 2 on the person of Vinod were caused with knife Ex.P3.

PW3 ASI Ram Pal testified that on 17.6.2000, he went to PGI, Chandigarh in connection with FIR No.81 of 2000, where after obtaining certificate regarding fitness of Gurdev, he recorded his statement under Section 161 Cr.P.C.

PW4 Constable Balwant Singh testified that on 16.6.2000 MHC Jaivir handed over to him special report of this case, which he delivered to the Ilqa Magistrate and senior police officers.

PW5 HC Jagbir Singh and PW6 Constable Girdawari Lal tendered in evidence their affidavits Ex.PH and Ex.PF, respectively.

PW7 HC Joginder Singh testified that on 16.6.2000, SI Sube Singh had directed him and Constable Karamvir Singh to take the dead body for postmortem. After the postmortem, the Medical Officer handed over the dead body alongwith postmortem report and a parcel containing the clothes of the deceased.

PW8 SI Banwari Lal testified that on 15.8.2000 he recorded the statement of Mange Ram, Photographer, who handed over the photographs and the negatives of the present case. On

26.8.2000, he received case summary and added the offence under Section 326 IPC. On 27.8.2000, he received the scaled site plan from the Draftsman and recorded his statement. After the completion of investigation, he prepared final report under Section 173 Cr.P.C.

PW9 Mange Ram Sharma, photographer proved the photographs Ex.P4 to Ex.P7 with their negatives Ex. P8 to Ex. P11, which he had taken of the dead body on 16.6.2000 after going to the spot.

PW10 Lakshman Singh, Draftsman proved the scaled site plan Ex.PJ, which he had prepared at the pointing out of Jogi Ram.

PW11 Jogi Ram, the first informant, deposed about the ocular account of the occurrence as well as the motive which led to the commission of the crime. He identified knife Ex.P3 which he had noticed in the hand of Raj Pal and knife Ex.P12 which was in the hand of Ram Kishan. He also stated that he had handed over the copy of the MLR to the police, whereafter his statement was recorded. He proved his statement Ex.PK.

PW12 Gurdev Singh, another eye-witness of the occurrence who had also received injuries during the occurrence corroborated the testimony of his brother PW11 Jogi Ram.

PW13 Dr. Vinod Kumar testified that on 16.6.2000 at 12.55 a.m. he had medico-legally examined Jogi Ram and found the following injuries on his person :-

“1. A lacerated wound of size 3.0 cms. x 0.5 cm.

present on the right side of the skull. It was skin deep. Fresh bleeding was present. X-ray was advised.

2. Abrasion was present on the right ring finger.”

He further deposed that both the injuries were kept under observation. Kind of weapon used was blunt. Probable duration of injuries was within 24 hours. He proved the photocopy of the MLR Ex.PL.

Dr. Vinod Kumar further stated that on the same day at 12.35 a.m., he had medico-legally examined Gurdev Singh and found the following injuries on his person :-

- “1. Incised wound of size 3.0 cms. x 0.5 cm. was present in the infra-axillary area left side. Fresh bleeding was present. Depth could not be measured to avoid injury to the internal organ.
2. Incised wound 3 cms. x 0.5 cm. was present in the infra-mammary area left side. Fresh bleeding was present. Depth could not be measured in order to avoid injury to internal organs.

Both the injuries were kept under observation and advised Surgeon's opinion. Kind of weapon was sharp for both the injuries. Duration of injuries was within 24 hours.”

He further deposed that both the injured were referred to PGI, Chandigarh. He proved copy of the MLR in respect of

Gurdev Singh as Ex.PM.

PW14 Jagan Ram testified that on 16.6.2000, the police had lifted blood stained earth from the spot in his presence vide memo. Ex.PN. He further deposed about the interrogation of Raj Pal and Ram Kishan and suffering of disclosure statements by them leading to recovery of knives from Raj Pal and Ram Kishan.

PW15 Inspector Sube Singh testified regarding recording the statement Ex.PK of Jogi Ram and going to the spot and preparing inquest report. He also summoned the photographer and got the dead body photographed; prepared rough site plan Ex.PS; lifted blood stained earth from the spot vide memo Ex.PN; writing application Ex.PC and sending the dead body for postmortem alongwith inquest proceedings to Civil Hospital, Kaithal; arresting Raj Pal and Ram Kishan accused on 18.6.2000; recording the disclosure statements of Raj Pal and Ram Kishan and effecting the recovery of the knife Ex.P3 at the instance of Raj Pal and knife Ex.P12 at the instance of Ram Kishan; took into possession pant of Gurdev Singh, injured which was having dried blood stains vide memo. Ex.PR; arresting Nihali and Kitabo on 22.6.2000 and, thereafter, sending sealed parcels to the Forensic Science Laboratory for chemical analysis.

Before closing the prosecution evidence, learned Public Prosecutor tendered in evidence report Ex.PV of the Forensic Science Laboratory.

When examined under Section 313 Cr.P.C., both Nihali

and Kitabo claimed that it was a false case and they were innocent. They were not present at the time of the alleged occurrence. They were falsely involved in the case. Raj Pal and Ram Kishan stated that on 15.6.2000 at about 9.30 p.m. Jogi Ram, his son Vinod Kumar and brother Gurdev Singh had come to their house while armed with lathis and started abusing them. On their protest, they caused injuries to Raj Pal. Thereafter, his father Ram Kishan brought a vegetable cutting knife and caused injuries to Gurdev Singh and Vinod Kumar in exercise of self defence and they had fallen on receipt of injuries in the abdomen. He further stated that when they were under attack by Jogi Ram, Gurdev and Vinod in front of their house, they had pelted 1/2 brick bats towards Gurdev, Vinod and Jogi Ram. They further stated that they got themselves medically examined at Narwana Hospital, where they were admitted. They were arrested by the police from Narwana Hospital on 16.6.2000, but police did not investigate the case impartially. Rather, the police colluded with the complainant party.

In their defence, the accused examined DW1 Dr. Rajesh Gupta, Medical Officer, Civil Hospital, Narwana, who deposed that on 16.6.2000 at 6.40 a.m., he had medico-legally examined Ram Kishan appellant and found the following injuries :-

- “1. An abrasion over dorsal side of the right hand of size 2 cms. x 2 cms. swelling on the right hand was present. X-ray of right hand was advised. Weapon was blunt.
2. A lacerated wound of size 2 cms. x 1 cm. over occipital region of scalp on the left side.

3. A lacerated wound of size 2 cms. x 1.5 cms. over right parietal region of scalp. Fresh bleeding was present. X-ray skull A.P. Lateral was advised and weapon used was blunt.
4. A reddish contusion over lateral side of right arm upper end present of size 5 cms. x 1.5 cms.
5. A reddish contusion of size 3 cms. x 1.5 cms. over posterior side of right lower arm. X-ray right arm was advised and weapon was blunt.
6. A contusion over right side of back below the neck was present. Colour was reddish. Size was 3 cms. x 1.5 cms. Weapon was blunt.

The injuries were caused within the probable duration of six hours. All the injuries were caused by blunt weapon. These injuries could have been received by accused Ram Kishan at 9.30 p.m. on 15.6.2000.”

Dr. Rajesh Gupta further testified that on the same day i.e. 6.40 a.m, he had medico-legally examined accused Raj Pal and found the following injuries on his person :-

- “1. A lacerated wound of size 1 cm. x 1 cm. over right frontal region of scalp. Fresh bleeding was present.
2. A contusion over posterior lateral side of right lower forearm of size 1 cm. x 1 cm. present. Swelling present. X-ray right forearm with wrist was advised.

Both the injuries were caused by blunt weapon within

the duration of six hours or even upto 12 hours.”

DW2 Dr. A.K. Leel, Medical Officer, Community Health Centre, Kaithal testified that on 18.6.2000 on the request of police, he had medico-legally examined Raj Pal and found the following injuries:-

- “1. An abrasion covered with lymph and swelling was present on the dorsal aspect of the right forearm in the middle. Area was tender. Size was 1 cm. x 1 cm.
2. A lacerated wound of size 2 cm. x 1 cm. with swelling and contused margins was present with secretion was oozing on cleaning was present on the right side of skull in the parietal region about 9 cms. above and anterior to right ear pinna. Margins start joining. X-ray skull was advised. Patient was referred to General Hospital, Kaithal.

All the injuries were caused by blunt weapon. Injury No.1 was simple while injury No.2 was kept under observation. The probable duration was within 96 hours.”

On the same day, he had also medico-legally examined Ram Kishan on the request of police and found the following injuries on his person :-

- “1. A lacerated wound of size 5 cms. x .5 cm. margins were swollen, contused, starts joining process. On cleaning oozing was present, yellowish substance filled in the gap was present in the middle of skull in parietal region. Slightly towards right side. Advised X-ray skull.

2. An abrasion with swelling covered with lymph of size 3.3 cms. was present on the occipital region in lower part towards left side.
3. A lacerated wound of size 3 cms. x .5 cm. yellowish substance was present on the right frontal region of the skull. Swelling was present around. Oozing on cleaning. Advised X-ray skull.
4. An abrasion covered with lymph size 2.5 cms. x 1 cm. was present on the dorsal aspect of right hand below ring finger.
5. Brownish contusion of size 4 cms. x 2 cms. present on the dorsal aspect of the right arm 6 cms. from elbow joint.
6. Brownish contusion of the size 5 cms. x 2 cms. present on the right deltoid muscle region, obliquely placed.

Patient was referred to General Hospital, Kaithal for X-ray. All the injuries were caused by blunt weapon. Injuries No.1 and 2 were kept under observation while the rest were simple in nature. The probable duration of the injuries was within 96 hours.”

After hearing learned counsel for the accused, learned Public Prosecutor and learned counsel for the complainant, the trial Court came to the conclusion that all the accused were not sharing common intention in causing murder of deceased Vinod Kumar. Rather, all the accused had played separate role and act in the incident in question. However, they were having reason, motive and cause to participate in the crime. Accordingly, Raj Pal was

convicted under Section 302 IPC and sentenced to undergo life imprisonment, Ram Kishan was convicted under Section 326 IPC and sentenced to undergo imprisonment for seven years, whereas Kitabo and Nihali were convicted under Section 323 IPC and sentenced to undergo imprisonment for one year each.

This Court has heard learned counsel for the appellants, learned State counsel and learned counsel for the complainant, besides scanning the evidence with their able assistance.

The main emphasis laid by the learned counsel for the appellants is on the fact that it was the complainant party which was the aggressor as it had reason to initiate the fight due to the quarrel between the woman at the water tap on the same very morning. In this regard, it may be noticed that at the time of the occurrence, Ram Kishan and Raj Pal appellants were armed with knives, whereas complainant Jogi Ram, injured Gurdev Singh and deceased Vinod were empty handed. Under these circumstances, it cannot be believed that the complainant party was the aggressor. Merely because the deceased had suffered two injuries, Jogi Ram had suffered two injuries whereas Gurdev Singh had also suffered two injuries and on the other side Raj Pal appellant had two injuries and Ram Kishan appellant had six injuries is not sufficient to hold that the appellants were not the aggressors.

As regards the non-explanation of the injuries suffered by Raj Pal and Ram Kishan appellants, it would be worthwhile to refer to the statements of DW1 Dr. Rajesh Gupta and DW2 Dr. A.K. Leel as per whom injuries on the person were simple in nature and

possibility of the same having been suffered by a friendly hand or self-suffered could not be ruled out.

Learned counsel for the appellants has submitted that three persons, namely, Pataso, Wazir Singh and Bhim Singh were also present at the spot but the prosecution did not examine them. They were given up as unnecessary. Therefore, adverse influence be drawn against the prosecution. It is also submitted that no independent witness was joined by the Investigating Officer. However, this Court finds that the Investigating Officer had made an attempt to record the statements of some persons, who had gathered at the spot but they did not agree to become witness. Even otherwise, there is always a party faction in the village and independent witnesses generally avoid associating themselves with the case. It is in the domain of the Public Prosecutor as to who is to be examined as a witness in support of the prosecution case. PW 11 Jogi Ram and PW12 Gurdev Sijgh, who had received injuries in the occurrence have been examined by the prosecution in support of its case. Both of them bore the stamp of occurrence as they were found to have suffered injuries in the occurrence. The non-examination of any other witness and non-joining of independent witness in the case, therefore, did not affect the merits of the present case.

The occurrence had taken place on 15.6.2000 at 9.30 p.m., whereas the FIR came to be registered during the same night, i.e. on 16.6.2000 at 3.20 a.m., i.e. after about six hours of the occurrence. It cannot be said to be a case where the FIR had been

registered after a delay. Moreover, one person had died and two had sustained injuries. After the incident, a vehicle was arranged which brought the injured to the hospital. After giving first-aid and conducting medico-legal examination, the doctor referred one of the injured to PGI, Chandigarh. Thereafter, the complainant went to Police Station and lodged the FIR. Thus, it can safely be concluded that it was a case of prompt reporting.

Now, the issue arises regarding the nature of offence. According to the prosecution, Raj Pal appellant had given a solitary blow with a knife on the left side of his stomach. On receiving the said injury, Vinod had fallen on the ground. At the time of post-mortem, two injuries were found on the dead body of Vinod, i.e. an incised wound on the left side of the chest and an incised wound in the left axilla. Both the injuries were elliptical in shape. Heart was punctured corresponding to injury No.1, whereas lungs and corresponding structures were punctured corresponding to injury No.2. In the opinion of the doctor, the cause of death was shock and haemorrhage as a result of injury to heart and lungs which were ante-mortem in nature. During cross-examination, the doctor stated that injury No.2 was under the armpit in the centre and possibility of the said injury being received by Vinod if his arm on the left side was in a raised position and the place where the injury had been received was exposed could not be ruled out. Neither in the FIR Ex.PK nor in the statements made before the trial Court by PW11 Jogi Ram and PW12 Gurdev Singh, it was stated that two injuries with a pointed weapon were inflicted upon deceased

Vinod. The consistent case of the prosecution is that only one injury was inflicted upon Vinod in his flank. The factum of causing of single injury on the deceased is indicative about there being no intention on the part of Raj Pal to commit the murder of Vinod. Had there been any such intention, the accused might have repeated the attack and inflicted more injuries. Under these circumstances, this Court is of the view that the conviction of appellant under Section 302 IPC cannot be sustained. Instead, he ought to be convicted under Section 304 Part I IPC as he caused the injury with the intention that it was likely to cause death in the ordinary course of nature.

According to the prosecution, Ram Kishan and Raj Pal appellants had caused grievous hurt to Gurdev Singh with sharp edged weapons making them liable for committing the offence punishable under Section 326 IPC. Gurdev Singh injured was medico-legally examined by PW13 Dr. Vinod Kumar on 16.6.2000 at 12.35 a.m. and found two injuries on his person. Both the injuries were kept under observation and advised surgeon's opinion. Kind of weapon was sharp for both the injuries, whereas duration was 24 hours. Gurdev Singh injured was then referred to PGI, Chandigarh where he was admitted with the stab injury on the left side of the chest. The injuries were as follows :-

- (i) 1 cm in length,
- (ii) 3 cm in length, and
- (iii) 4 cm in length

All the injuries were on the left lateral chest wall. Injury

No.3 was in the left axillary area with a large subcutaneous pocket. A chest tube was put in at the time of admission through injury No.2 for draining the blood. On X-ray, haemo-pneumo thorax on the left side as well as on the right side was noticed. Another tube was put in the right side of the chest to evacuate the air. The injury was managed conservatively with chest physiotherapy. After the improvement of the condition of the injured, the tubes were removed on 20.6.2000 and he was discharged on 21.6.2000. In his cross-examination, Dr. Vinod Kumar deposed that no assessment to any damage to internal viscera was done through scanning and only conservative treatment was given to the injured. The chest X-ray at the time of discharge showed normalcy. He further stated that the injured was conscious and oriented when he was brought to the hospital and was admitted.

Neither PW13 Dr. Vinod Kumar nor PW1 Dr. Sukant Kumar Bahera, who had medically examined and treated Gurdev Singh for the injuries received by him, stated that any of the injuries received by him were grievous. The record produced by the prosecution did not indicate that PW Gurdev Singh remained in the hospital for more than 20 days and, that too, in severe bodily pain or unable to follow his ordinary pursuits. As such, the conviction of Ram Kishan appellant under Section 326 IPC deserves to be altered to one under Section 324 IPC.

Resultantly, the conviction of Raj Pal appellant under Section 302 IPC is set aside. Instead, he is convicted under Section 304 Part I IPC and sentenced to undergo rigorous imprisonment for

ten years and to pay a fine of Rs.50,000/- and in default of payment of fine, to undergo further rigorous imprisonment for one year. The conviction of Ram Kishan appellant under Section 326 IPC is also set aside. Instead, he is convicted under Section 324 IPC and sentenced to the period already undergone by him. However, he was sentenced to pay a fine of Rs.10,000/- and in default of the same, he shall undergo further rigorous imprisonment for six months. The conviction of Nihali and Kitabo appellants under Section 323 IPC is upheld. However, their sentences of imprisonment are reduced to the one already undergone by them. The entire amount of fine, i.e. Rs.60,000/-, if recovered, be disbursed in favour of complainant Jogi Ram as compensation.

The appeal (Criminal Appeal D-185-DB of 2004) filed by the convicts and the revision (Criminal Revision 1127 of 2004) preferred by complainant-Jogi Ram are disposed of accordingly.

JULY 06, 2017

( T.P.S. MANN )  
JUDGE

( HARI PAL VERMA )  
JUDGE

satish

Whether reasoned/speaking : YES / NO

Whether reportable : YES / NO