

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

DATE OF DECISION: 01.03.2017.

CRA-S-1613-SB of 2004

Bhola Singh

....Appellant.

Versus

State of Punjab

...Respondent.

AND

CRA-S-1933-SB of 2004

Charna Singh and another

....Appellants.

Versus

State of Punjab

...Respondent.

CORAM: HON'BLE MR. JUSTICE (DR.) SHEKHER DHAWAN

Present: Mr. Kanwal Goyal, Advocate
for the appellant(s) (Legal Aid Counsel).

Mr. Yogesh Kumar Gupta,
Assistant Advocate General, Punjab.

SHEKHER DHAWAN, J.

Criminal Appeal No.CRA-S-1933-SB of 2004 qua appellant
No.2 Chhota Singh son of Bhanga Singh stands abated under Section 394
Cr.P.C. vide order dated 15.02.2017.

2. The above detailed two appeals are directed against the
common judgment of conviction and order of sentence dated 22.07.2004

passed by learned Additional Sessions Judge, Bathinda whereby appellants Charna Singh, Chhota Singh and Bhola Singh were convicted and sentenced as under:-

Name	Under Section	Sentence	In default
Charna Singh	Section 307 of Indian Penal Code (for short, "I.P.C.")	to undergo Rigorous Imprisonment for a period of five years and to pay of fine of ₹1,000/-.	To further undergo rigorous imprisonment for one year.
	Section 325 of I.P.C.	to undergo Rigorous Imprisonment for a period of three years and to pay of fine of ₹1,000/-.	To further undergo rigorous imprisonment for eight months.
	Section 323 of I.P.C.	to undergo Rigorous Imprisonment for a period of six months.	
Chhota Singh	Section 307 read with Section 34 of I.P.C.	to undergo Rigorous Imprisonment for a period of three years six months and to pay of fine of ₹1,000/-.	To further undergo rigorous imprisonment for eight months.
	Section 325 read with Section 34 of I.P.C.	to undergo Rigorous Imprisonment for a period of two years and to pay of fine of ₹500/-.	To further undergo rigorous imprisonment for four months.
	Section 323 of I.P.C.	to undergo Rigorous Imprisonment for a period of six months.	
Bhola Singh	Section 307 read with Section 34 of I.P.C.	to undergo Rigorous Imprisonment for a period of three years six months and to pay of fine of ₹1,000/-.	To further undergo rigorous imprisonment for eight months.
	Section 325 read with Section 34 of I.P.C.	to undergo Rigorous Imprisonment for a period of two years and to pay of fine of ₹500/-.	To further undergo rigorous imprisonment for four months.

	Section 325 of I.P.C.	to undergo Rigorous Imprisonment for a period of three years and to pay of fine of ₹1,000/-.	To further undergo rigorous imprisonment for eight months.
	Section 323 of I.P.C.	to undergo Rigorous Imprisonment for a period of six months.	

3. The sentences were ordered to run concurrently.
4. Therefore, both the above mentioned appeals are being disposed of by this common judgment.
5. Relevant facts for the purpose of decision of these appeals; that on 20.08.2002 accused/appellants caused injuries to Karamjit Singh, Jugraj Singh and Kulwant Singh with their respective weapons i.e. Gandasi and Soti. The dispute had taken place because of some game relating to pigeons about a year back and the said ill will still continued. The injured were taken to the hospital for medical treatment. They were medico legally and radiologically examined. After completion of investigation proceedings, challan was presented in the Court for trial.
6. During process of trial, learned trial Judge framed charge against accused persons. Statements of prosecution witnesses including injured and police officials, who had completed investigation formalities were recorded. Accused were examined under Section 313 Cr.P.C. wherein they had denied the allegations against them and did not produce any defence evidence. Learned trial Judge after considering the prosecution evidence and defence version held the accused/appellants guilty and convicted and sentenced them, as indicated above.
7. Learned counsel for the appellants contended that if the entire prosecution case is taken at its face value, the same does not appear to be

plausible as practically there was no motive to cause such an injury. If at all, there was any dispute on trivial issue, that was also long back i.e. apart one year back. Otherwise there was no reason for the accused persons to take the course of law in their hands and cause such an injury without any motive and provocation. Otherwise also, the statements of prosecution witnesses are full of material contradictions and are not believable.

8. Learned counsel for the appellants further contended that the incident had taken place long back and both the appellants, who are now present before the Court, have already undergone considerable period, while remaining in custody during investigation and trial and now they be released from custody as they are not previous convicts and not involved in any other case.

9. While arguing on this point, learned State counsel contended that the prosecution case stands duly proved and injuries were caused by accused persons by using most deadly weapons and seat of injuries was on the head of Jugraj Singh. All the three accused had formed common intention to take the course of law in their hands and caused injuries to three innocent persons without any reason. Learned trial Judge has already taken most lenient view on the point of sentence and there are no grounds for acceptance of appeal on the point of conviction and order of sentence and appeal be dismissed in toto.

10. After considering the rival contentions of the parties and appraisal of record of this case, this Court is of the considered view that the prosecution case is based upon the testimony of injured witnesses. These witnesses had absolutely no reason to depose falsely against the present appellants and to allow the real culprits to go scot-free. The nature of

injuries explained by the injured in their respective statements is fully supported and corroborated by medical evidence. The weapons used for commission of offence i.e., Gandasi and Soti were recovered from the possession of the accused, during investigation and same also stands proved as per statements of witnesses examined during the trial. The defence version is practically nil and has been rightly discarded by the Court below. There is absolutely no merit warranting interference in the judgment of conviction dated 22.07.2004. The present appeals stand dismissed qua judgment of conviction.

11. As regard to the appeals against order of sentence, certainly a little lenient view can be taken because both the appellants, namely, Charna Singh and Bhola Singh are not previous convicts. The alleged occurrence relates to the year 2002 and even thereafter, they are not reported to be involved in any other case of similar nature. Accordingly, the substantive sentence awarded to appellant-Charna Singh is reduced from five years to four years rigorous imprisonment under Section 307 IPC and fine as ordered by the Court below.

12. The substantive sentence awarded to appellant-Bhola Singh under Sections 307 and 325 IPC is reduced from three years and six months and three years to two years rigorous imprisonment under both sections and fine as ordered by the Court below. Needless to mention that the sentences awarded by the Court below to the appellants under remaining sections shall remain intact.

13. As appellants, Charna Singh and Bhola Singh are on bail, they be taken in to custody to serve the remaining sentence. In that case, their bail/ surety bonds shall stand cancelled. The trial Court shall comply with

this order forthwith under intimation to this Court. The Registry shall keep track of the submission of compliance report and put up the papers accordingly after a period of three months.

14. The appeals stand partly accepted, in the above terms.

(SHEKHER DHAWAN)
JUDGE

01.03.2017.

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Whether Speaking/reasoned : Yes/No

Whether Reportable : Yes/No