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

1. CRA-S- 1685-SB-2004
Date of Decision : September 08, 2017

Rishi Pal (Since deceased)

.... Appellant

Versus

State of Punjab

.... Respondent

2. CRA-S-2324-SB-2004

Jai Singh

.... Appellant

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Argued by :- Mr. Kewal Singh, Advocate,
and Mr. Munish Dev Sharma, Advocate,
(Amicus Curiae) for the appellants.

Mr. Rahul Rathore, DAG, Punjab
for the respondent-State.

SHEKHER DHAWAN, J.

Present appeals are directed against the judgment of conviction
and order of sentence dated 8.7.2004 passed by learned Additional Sessions
Judge (Adhoc), Fast Track Court, Ludhiana whereby present appellants,

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namely Rishi Pal and Jai Singh, alongwith two others, were convicted and sentenced as under:-

Under Section	Sentence	In default
307/149 IPC	to undergo Rigorous Imprisonment for a period of Seven years and to pay a fine of ₹1000/-	to further undergo Rigorous Imprisonment for a period of three months.
324 IPC	to undergo Rigorous Imprisonment for a period of two years	---
324/149 IPC	to undergo Rigorous Imprisonment for a period of two years	---
148 IPC	to undergo Rigorous Imprisonment for a period of One year.	---

All the sentences were ordered to run concurrently.

2. Facts relevant for the purpose of decision of the appeals; that process of law was set into motion by complainant, Raj Kumar and as per him, on 12.08.2001, accused Raju had arranged a party to celebrate birth of his newly born son. Raj Pal, father of the complainant, who was distantly related to the accused persons, had also gone to attend that party. After some time, Raj Pal, father of the complainant, came back and told that accused persons had abused him. At about 11.00 PM, accused Veda, Jai Singh, Rishi Pal, Raju and Pappu were standing in their plot situated in front of the house of the complainant and on seeing them, the complainant came out of his house and enquired from the accused persons for abusing his father. Accused Raju, Pappu and Jai Singh caught hold of the complainant from his arms and accused Veda gave a knife (*Churri*) blow on the left side

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of chest of the complainant. Accused Rishi Pal gave a blow with spade on the left upper arm of the complainant. Raj Pal, father of the complainant and S. Kumar, brother of the complainant also came there and tried to rescue the complainant whereupon accused Veda gave a knife blow on the left upper arm of Raj Pal and accused Rishi Pal gave a blow with his spade on the left arm of Raj Kumar. Accused Raju who was armed with a knife gave a knife blow on the left elbow of S. Kumar, brother of the complainant. On raising alarm, Surinder and Faqir Chand came there and at that time, accused persons fled away from the spot alongwith their respective weapons. Injured persons were medico-legally examined.

3. After completion of investigation proceedings, challan was presented in the Court for trial.

4. During trial, learned Court below completed various proceedings of trial including framing of charge against the accused persons, recording of evidence of the prosecution witnesses and examination of accused under Section 313 Cr.P.C. After considering the prosecution evidence and defence version on record, learned trial Judge held the appellants guilty and convicted and sentenced them.

5. Aggrieved of passing of judgment of conviction and order of sentence, the appellants are before this Court by way of present appeals.

6. At the time of arguments, learned counsel for the appellants contended that the appellants have been falsely implicated in this case and even the injuries caused by the present appellants were declared simple in

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nature and injury under Section 307 IPC was not attributed to the present appellants. Learned trial Judge has not considered these facts and misread and mis-appreciated the oral as well as documentary evidence.

7. Learned counsel representing the appellants further submitted that accused Veda and Raju were released from custody after completion of substantive sentence awarded to them. Appellant Rishi Pal has died during the pendency of his appeal and on an application for impleadment, his LRs were brought on record by this Court vide order dated 5.7.2017. Appellant Jai Singh had already undergone actual sentence of more than 4 years and 6 months.

8. Learned State counsel contended that learned trial Judge has considered the statements of injured witnesses and eye-witnesses as also the medical evidence available on the file and on that basis, the judgment of conviction was rightly recorded and there is no ground to set-aside the judgment of conviction and order of sentence and the present appeals be dismissed.

9. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that the main injured witnesses were examined before the Court below. PW-3, Raj Kumar, complainant and PW-4, Raj Pal were examined and they had detailed the exact sequence of events and the manner in which the present appellants had caused injuries on their person and as detailed above. Complaint, Ex. PD was proved as per statement of complainant, PW-3,

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complainant, Raj Kumar. These two witnesses were put to cross-examination and they have not been proved to be liar.

10. The ocular version is duly supported and corroborated by medical evidence by way of statement of PW-2 Dr. U.S.Sooch, Medical Officer, Civil Hospital, Ludhiana, who, on 13.08.2001 medico-legally examined complainant - complainant, Raj Kumar and observed the following injuries on his person:-

“1. Incised wound 1.1/4 inch x ¼ inch x ? depth on the middle and left flank of abdomen, placed vertically. Fresh duration was present. X-ray was advised and injury was referred to Surgical Specialist.

2. Incised wound 1.1/2 inch x ¼ inch x muscle deep vertical on the mid lateral side of the left arm with fresh bleeding.”

11. However, injury No.1 was kept under observation and injury No.2 was declared to be simple in nature.

12. On the same day, he also medico-legally examined Raj Pal, father of the complainant, another injured of the case, and found the following injuries on his person :-

“1. Incised wound 1.1/4 inch x 2 inch x ? depth on the medial and left axilla with fresh bleeding. X-ray was advised.

2. Incised wound 3 inch x 6 inch x skin deep placed obliquely on the back and lower part of left fore arm. ”

13. As per PW-1, Dr. Waheguru Pal Singh, complainant complainant, Raj Kumar was admitted to Guru Teg Bahadur Hospital, Ludhiana having stab/knife injuries on 16.8.2001 and the injured was discharged from the hospital on 18.10.2001 as per his report (Ex. PA), injury of complainant, Raj Kumar was declared to be dangerous to life.

14. The entire prosecution evidence was put to the accused persons

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while recording their statements under Section 313 Cr.P.C. and the same was simply denied by them and plea of false implication was taken whereas no defence evidence was led. On the basis of statements of injured witnesses before the Court below and the medical evidence available on the file, learned trial Judge has rightly held the accused-appellants guilty and convicted them vide impugned judgment dated 8.7.2004 and there are no grounds for setting-aside the judgment of conviction. The appeals qua judgment of conviction dated 8.7.2004 stand dismissed.

15. As regards to the order of sentence, learned counsel for the appellants contended that Rishi Pal, accused-appellant has since died and his LRs have been brought on record vide order dated 5.7.2017. Another appellant, Jai Singh has already undergone more than 4 years and 6 months of actual sentence in this case. Therefore, a lenient view may be taken and his sentence may be reduced suitably.

16. As per the facts of the case, the main injury attracting the provisions of Section 307 IPC is attributed to accused – Veda who has been released on completion of substantive sentence and the remaining injury No.2 on the person complainant, Raj Kumar as well as injuries on the person of Raj Pal were simple in nature. Certainly, a little lenient view on the point of sentence can be taken and the order of sentence dated 8.7.2004 is modified to the extent that appellant - Jai Singh shall undergo substantive sentence of Rigorous Imprisonment for a period of 4 years instead of 7 years under Section 307/149 IPC and he shall be released from custody, if he has

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already undergone the actual sentence as modified above.

17. The appeals are disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

September 08, 2017
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Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No