

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

**CRA-D-801-DB of 2011
Date of decision:-27.3.2017**

Hari Pal and others

....Appellants

Versus

State of Haryana

....Respondent

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

Present : Mr.Shailender Sharma, Advocate
for appellant – Hari Pal.

Mr.Deepinder Singh Brar, Advocate
for the remaining appellants.

Mr.Praveen Bhadu, Assistant Advocate General, Haryana.

H.S. MADAAN, J.

This appeal has been preferred against the judgment and order dated 30.7.2011 passed by the Court of learned Additional Sessions Judge, Kaithal, vide which accused Hari Pal, Multan Singh, Suresh Kumar, Jagdev Singh, Krishan Kumar, Sham Lal and Jasminder Singh were convicted and sentenced as follows:

Name of accused	Under Section	Sentence Awarded
Hari Pal, Suresh Kumar, Multan Singh and Jagdev Singh	302 read with Section 34 IPC	Imprisonment for life and to pay a fine of Rs.5,000/- each and in default thereof, to further undergo simple imprisonment for a period of three months each.

Hari Pal, Suresh Kumar, Jagdev Singh, Krishan Kumar, Sham Lal and Jasinder Singh	25 of Arms Act	Rigorous imprisonment for one year and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo simple imprisonment for one month each.
Multan Singh	30 of Arms Act	Rigorous imprisonment for four months and to pay a fine of Rs.500/- and in default thereof, to further undergo simple imprisonment for fifteen days.

The substantive sentences were ordered to run concurrently.

The accused-convicts, who are appellants before this Court pray that the appeal be accepted, the impugned judgment of conviction and order of sentence be set aside and they be acquitted of the charge framed against them.

It may be mentioned here that appellant – accused – convict – Jagdev Singh has expired during the pendency of the appeal and therefore, the appeal filed by him would abate.

Briefly stated, the facts of the case as per prosecution version are that on 27.11.2008, a telephonic message was received at Police Station Dhand that a quarrel had taken place in the agricultural field of Nafe Singh son of Chattar Singh, resident of village Chuhan Majra and that several persons had gathered there and firing was going on. On receipt of that information, a police party led by ASI Balwan Singh went to the spot. Further, the mob attacked the police vehicle in which EHC Baljit Singh, a member of the police party, received injuries. The police officials were obstructed from discharging their official duties. In that quarrel Shamsher, Jasmer, Pardeep and Ramesh had

received injuries. The police party removed them to the hospital for treatment. The police intervened and separated the quarrelling parties. The complainant Nafe Singh son of Chattar Singh, aged about 45 years of Ror community, resident of village Chuhar Majra, Police Station Dhand got his statement recorded with ASI Balwan Singh wherein he stated that they are four brothers, out of those he, Dharam Pal and Ishwar are residing together whereas their fourth brother Fateh Singh is residing separately from them; that they all the three brothers had purchased one half killa of agricultural land in village Chuhar Majra in the year 2004 from Krishan son of Mat Ram of Ror community, resident of their village and in addition to that they had purchased another one half killa of land from Prithvi son of Mat Ram in the year 2006 whereas one half killa of land was purchased by Parwara son of Risal Singh of Ror community belonging to their village in the year 2006 from Prithvi son of Mat Ram of Ror community of their village; that mutation had since been sanctioned and girdawari entries were accordingly made in their names; that as per revenue record, killa No.24/5 is in the name of complainant and his brothers whereas girdawaris of killa No.23 ½ were in the name of Parawar. According to complainant, he and his brothers had been cultivating the land so purchased by them. However, on the intervening night of 14/15.11.2008 Hari Pal, Sham Lal and Paramjit etc. had destroyed the *barsin* and wheat crops standing in their aforesaid fields regarding which FIR No.115 dated 15.11.2008 was registered at Police Station Dhand; that on 27.11.2008, he along with Fateh Singh son of Chattar Singh, Sewa Singh son of Risal Singh, Karambir son of Gopala, Subha Singh son of Ran Singh, Sultan Singh son of Nand Lal,

Krishan son of Mat Ram of Ror community, residents of village Chuhan Majra, Satpal son of Chandan of Ror community, resident of village Bandarana, Pardeep son of Roshan of Ror community, resident of Karnal, Shamsheer Singh son of Bhag Singh, Jasmer son of Risal Singh of Ror community, resident of Pabnawa, Ramesh son of Bhatru of Ror community, resident of village Chuhan Majra were cultivating and sowing the seeds of wheat in their said land which is located on the backside of *kothi* of Jagdev Singh son of Ram Saran; that in the meanwhile, accused Hari Pal son of Bahadur, Sham Lal son of Bahadur, Jagdev son of Ram Saran and Krishan son of Jagdev of Ror community, residents of his village, each having country-made pistol in their hands with Multan son of Het Ram of Ror community, resident of village Kaul having gun in his hand, Suresh son of Ran Singh of Ror community, resident of village Pai Gate, Pundri having a country-made pistol in his hand, Paramjit son of Babadur having a gandasi, Ram Prashad son of Jagdev having a gandasi, Jaswinder son of Jagdev of Ror community, resident of village Chuhan Majra having a sword in his hand, Mahinder son of Man Singh of Ror community, resident of village Chor Karsa having sword in his hand along with 20-25 other persons armed with lathis, gandas, swords and country-made pistols came out in the *varandah* and roof of the *kothi* of Jagdev Singh; that Hari Pal raised a *lalkara* (exhortation) that complainant side be taught a lesson for cultivating the land and no body should go scot free; that it was about 1:30 p.m. at that time; that Hari Pal and Suresh Pal fired at Satpal, Sham Lal fired at Shamsheer, Krishan fired at Jasmer, Multan fired at Pardeep and Jagdev fired at Ramesh. In the meanwhile, 2-3 police vehicles

reached at the spot; that then all the accused/assailants along with Mahinder son of Man Singh, Jas minder, Ram Prasad, Paramjit ran away after scaling over the wall whereas the complainant party started running towards the village out of fear and to save themselves. Paramjit had raised a *lalkara* to damage the police vehicles, hearing that, Mahinder, Jas minder, Paramjit, Ram Parsad and a few other persons surrounded the police vehicles and damaged two of them; that the complainant party was saved from the clutches of the accused by intervention of police and the villagers and that Satpal son of Chandan of Ror community, resident of village Bandarana had died at the spot due to suffering fire arm injuries at the hands of Hari Pal and Suresh. Shams her Singh, Jas mer Singh, Pardeep Kumar and Ramesh were found in injured condition. The complainant concluded his statement saying that accused with a common intention had caused injuries and committed murder of Satpal with their respective weapons and legal action be taken against them. That statement was signed by complainant Nafe Singh and his said signatures were attested by ASI Balwan Singh, such statement being Ex.PA. ASI Balwan Singh had appended his endorsement Ex.PA/2 below such statement and sent ruqa to the police station through Constable Parvesh Kumar, on the basis of which formal FIR Ex.PA/3 was registered at Police Station Dhand by Ved Parkash, MHC. ASI Balwan Singh summoned a photographer to the spot, who clicked photographs of the dead body of Satpal. ASI Balwan Singh carried out inquest proceedings with regard to unnatural death of Satpal, preparing a report Ex.PM/3 in that respect. He drafted an application Ex.PM and removed the dead body of Satpal to General Hospital, Kaithal for getting

post-mortem examination conducted on the said dead body and he got the needful done.

On 27.11.2008, the investigation of this case was taken over by SI/SHO Raj Singh (hereinafter referred to as the Investigating Officer/IO), who had carried out the spot inspection and prepared rough site-plan of the place where the dead body of Satpal was lying as Ex.PEEE. He removed the blood stained earth from the spot, placing it in a mini plastic box, preparing a parcel thereof sealing that with his seal having inscription 'RS' and that parcel was taken into possession vide recovery memo Ex.PB. That memo was signed by the witnesses. The Investigating Officer recorded statements of witnesses. He inspected the roof of varandah of Jagdev Singh at the instance of Nafe Singh – complainant and took into possession eleven empty shells of 12 bore cartridge and one empty shell of 315 bore cartridge. Those were converted into parcels and sealed with the seal of SI Raj Singh having inscription 'RS' and took into possession vide recovery memo Ex.PB/1.

The Investigating Officer prepared the rough site-plan of the place of recovery as Ex.PB/7. He had lifted 10 empty shells of 12 bore cartridge and one empty shell of 315 bore cartridge from the roof of the house of Jagdev Singh at the instance of Nafe Singh. Those were converted into a parcel and sealed with the seal of SI Raj Singh having inscription 'RS' and taken into possession vide recovery memo Ex.PB/2. The Investigating Officer had prepared rough site plan of the place of recovery as Ex.PB/8.

Thereafter, the police party went to the field of Nafe Singh and the Investigating Officer took into possession five empty shells of

12 bore cartridges and the same were converted into a parcel and taken into possession vide recovery memo Ex.PB/3. The Investigating Officer prepared rough site-plan of the place of recovery as Ex.PB/9. Thereafter, nine motorcycles and one car which were there in front of *kothi* of Jagdev Singh were taken into possession vide recovery memo Ex.PB/4. The vehicles were sent to Police Station Dhand and deposited with the MHC. The Investigating Officer collected MLRs of injured Pardeep and Shamsher Singh and thereafter went to General Hospital, Kaithal. The Investigating Officer moved an application Ex.PFFF seeking opinion of the attending doctor regarding fitness of injured Pardeep Kumar to make statement on which he was informed vide endorsement Ex.PFFF/1 that at request of Pardeep Kumar, he had been referred to General Hospital, Karnal. Thereafter, the Investigating officer moved another application Ex.PGGG before the doctor seeking opinion regarding fitness of Shamsher Singh – injured to make statement, on which the doctor vide endorsement Ex.PGGG/1 informed that the patient had been referred to PGI Chandigarh. The Medical Officer handed over to the Investigating Officer a sealed parcel of clothes of injured Shamsher Singh which was taken into possession vide memo Ex.PB/6.

Thereafter, the police party led by Sub-Inspector Raj Singh again went to village Chuhar Majra, where he received a secret information that some of accused were present at bus stop of village Chuhar Majra. The police party accordingly went there. Accused Hari Pal, Sham Lal, Paramjit, Krishan, Jaswinder, Multan, Mohinder, Suresh and Ram Partap were arrested and brought to the police station and were put in lock up. Whereas the case property was deposited with MHC.

EHC Baljit Singh and Constable Pala Ram had produced their MLRs before the Investigating Officer which were attached with the file and the Investigating officer recorded their statements.

On 28.11.2008, the Investigating Officer took out the accused from the lock up and they were interrogated one by one in the presence of HC Ramesh Chander, HC Chatar Singh and EHC Rajbir. Firstly, Hari Pal accused was interrogated and he suffered a disclosure statement Ex.PEE stating that he had kept concealed a country-made pistol at his tubewell *kotha* and he could get the same recovered. That statement was signed by accused Hari Pal and attested by the witnesses. After that, accused Sham Lal was interrogated, who also suffered a disclosure statement Ex.PFF which was reduced into writing and thumb marked by accused Sham Lal and attested by witnesses. Then accused Krishan was interrogated, who suffered a disclosure statement Ex.PGG stating that he had kept concealed a country-made pistol in an iron box lying in his residential house and he could get the same recovered. That disclosure statement was reduced into writing and signed by accused Krishan and attested by same witnesses. Then came turn of accused Multan Singh, who was interrogated, during course of which he suffered a disclosure statement Ex.PHH stating that he had kept concealed double barrel gun at his residential house and he could get the same recovered. That disclosure statement was reduced into writing and signed by accused Multan Singh and attested by the same witnesses. Thereafter, accused Suresh was interrogated, during course of which he suffered a disclosure statement Ex.PJJ stating that he had kept concealed a country-made pistol under the clothes in his almirah lying in his

residential house about that only he had exclusive knowledge and he could get the same recovered. That disclosure statement was reduced into writing and signed by accused Suresh and attested by the same witnesses. After that accused Paramjit was interrogated, during course of which he suffered a disclosure statement Ex.PKK stating that he had kept concealed a *gandasi* in his residential house in the *kotha* of cattle and he could get the same recovered. That disclosure statement was reduced into writing and signed by accused Paramjit and attested by the same witnesses. Then accused Ram Parshad was interrogated, during course of which he suffered a disclosure statement Ex.PLL stating that he had kept concealed a *gandasi* in the fodder *kotha* at his residential house and he could get the same recovered. That disclosure statement was reduced into writing and signed by accused Ram Parshad and attested by same witnesses. Thereafter, accused Jaswinder was interrogated, during course of which he suffered a disclosure statement Ex.PMM stating that he had kept concealed a sword behind the iron box lying in his residential house and he could get the same recovered. That disclosure statement was reduced into writing and signed by accused Jaswinder and attested by the same witnesses. Thereafter, accused Mohinder was interrogated, during course of which he suffered a disclosure statement Ex.PNN stating that he had kept concealed a sword under the bed at his residential house and he could get the same recovered. That disclosure statement was reduced into writing and thumb marked by accused Mohinder and attested by same witnesses.

Then all those accused were got medically examined and produced in the Court. ASI Balwan Singh came across SI/SHO Raj

Singh in the hospital and handed over to him a sealed parcel of clothes of deceased Satpal and a vial containing pellets besides sample seals and post-mortem report etc. Those were taken into possession vide recovery memo Ex.PVV.

Thereafter, the police party along with accused went to village Pundri at the house of accused Suresh Kumar who got recovered a country-made pistol of 12 bore along with one cartridge of the same bore. The Investigating Officer prepared rough sketch of the recovered pistol as Ex.PQQ. He converted that country-made pistol Ex.P48 and cartridge into a parcel, sealed it with his seal having inscription 'RS' and took it into possession vide recovery memo Ex.PQQ/1. The Investigating Officer had prepared the rough site-plan of the place of recovery as Ex.PQQ/2. He also recorded statements of witnesses.

On 29.11.2008, the Investigating Officer SI Raj Singh took out all the nine accused from police lock up and proceeded for effecting the recovery. They had reached at Panchmukhi Chowk, Dhand. At first, accused Sham Lal accused retracted from his previous statement and made a fresh statement under Section 27 of the Evidence Act disclosing that he had kept concealed a country-made pistol in his residential house lying in the iron box about which only he had exclusive knowledge and he could get the same recovered. That disclosure statement was reduced into writing as Ex.PU which was thumb marked by accused Sham Lal and attested by the witnesses.

Thereafter, accused Hari Pal led the police party to the disclosed place and got recovered a country-made pistol of .12 bore along with one live cartridge of the same bore. The Investigating Officer

prepared rough sketch of the pistol as Ex.PV. He converted the country-made pistol Ex.P12 and cartridge into a parcel, sealed it with his seal having inscription 'RS' and took it into possession vide recovery memo Ex.PV/1. The Investigating Officer had prepared the rough site-plan of the place of recovery as Ex.PV/2.

Thereafter, accused Krishan led the police to the disclosed place and got recovered a country-made pistol of .315 bore along with one live cartridge of the same bore. The Investigating Officer prepared rough sketch of the pistol as Ex.PX. He converted the country-made pistol Ex.P13 and cartridge into a parcel, sealed it with his seal having inscription 'RS' and took it into possession vide recovery memo Ex.PX/1. The Investigating Officer had prepared the rough site-plan of the place of recovery as Ex.PX/2.

Thereafter, accused Sham Lal led the police to the disclosed place and got recovered a country-made pistol of .315 bore along with one live cartridge of the same bore. The Investigating Officer prepared rough sketch of the pistol as Ex.PU/1. He converted the country-made pistol Ex.P11 and cartridge into a parcel, sealed it with his seal having inscription 'RS' and took it into possession vide recovery memo Ex.PU/2. The Investigating Officer had prepared the rough site-plan of the place of recovery as Ex.PU/3.

Thereafter, accused Paramjit led the police to the disclosed place got recovered a *gandasi* Ex.P15 The Investigating Officer prepared rough sketch of the *gandasi* as Ex.PZ. He converted the *gandasi* into a parcel, sealed it with his seal having inscription 'RS' and took it into possession vide recovery memo Ex.PZ/1. The Investigating

Officer had prepared the rough site-plan of the place of recovery as Ex.PZ/2.

Thereafter, accused Ram Parshad led the police to the disclosed place got recovered a *gandasi* Ex.P16. The Investigating Officer prepared rough sketch of the *gandasi* as Ex.PAA. He converted the *gandasi* into a parcel, sealed it with his seal having inscription 'RS' and took it into possession vide recovery memo Ex.PAA/1. The Investigating Officer had prepared the rough site-plan of the place of recovery as Ex.PAA/2.

Thereafter, accused Jaswinder led the police to the disclosed place and got recovered a sword Ex.P14. The Investigating Officer prepared rough sketch of the sword as Ex.PY. He converted the sword into a parcel, sealed it with his seal having inscription 'RS' and took it into possession vide recovery memo Ex.PY/1. The Investigating Officer had prepared the rough site-plan of the place of recovery as Ex.PY/2.

Thereafter, accused Multan led the police to the disclosed place got recovered a double barrel gun Ex.P17 along with a live cartridge of 12 bore along with its licence. The Investigating Officer prepared rough sketch of the gun as Ex.PBB. He converted the gun and the cartridge into a parcel, sealed it with his seal having inscription 'RS' and took it into possession vide recovery memo Ex.PBB/1. The Investigating Officer had prepared the rough site-plan of the place of recovery as Ex.PBB/2.

Thereafter, accused Mohinder led the police to the disclosed place got recovered a sword Ex.P18. The Investigating Officer

prepared rough sketch of the sword as Ex.PCC. He converted the sword into a parcel, sealed it with his seal having inscription 'RS' and took it into possession vide recovery memo Ex.PCC/1. The Investigating Officer had prepared the rough site-plan of the place of recovery as Ex.PCC/2.

On return to the police station, the Investigating Officer deposited the case property with MHC and the accused were put in lock-up. He also recorded the statements of the witnesses under Section 161 Cr.P.C. Thereafter, on the same day, he had again taken out the above named nine accused from the lock up and produced them before the Court. Such accused were again got medico legally examined and as per the direction of the Court, the accused were sent to judicial lock up.

The Investigating Officer got secret information that many other accused pertaining to this case were present near bus stand Dhand. Thereafter, he along with heavy security and a number of police officials reached near bus stand Dhand and persons namely Mala Ram, Jagdeep, Raj Pal, Naresh etc. met him there and Mala Ram produced 34 accused. The Investigating Officer arrested all the 34 accused in this case and while being arrested, seven of the accused namely Rinku, Sandeep, Naresh etc. produced a *lathi* each and Balwan accused produced a *gandasi* (Ex.P72) which were converted into parcels and sealed with seal having inscription 'RS' and taken into possession vide recovery memo Ex.PZZ/4. Similarly Joginder accused produced a *lathi* (Ex.P66) which was converted into a parcel sealed with seal having inscription 'RS' and taken into possession vide recovery memo Ex.PXX. Accused Ramesh produced a *lathi* (Ex.P67) which was converted into a

parcel sealed with seal having inscription 'RS' and taken into possession vide memo Ex.PYY. Accused Naresh produced a *lathi* (Ex.P68) which was converted into a parcel sealed with seal having inscription 'RS' and taken into possession vide memo Ex.PZZ. Accused Sandeep produced a *lathi* (Ex.P69) which was converted into a parcel sealed with seal having inscription 'RS' and taken into possession vide memo Ex.PZZ/1. Accused Pardeep produced a *lathi* (Ex.P70) which was converted into a parcel sealed with seal having inscription 'RS' and taken into possession vide memo Ex.PZZ/2. Accused Babu Ram produced a *lathi* (Ex.P71) which was converted into a parcel sealed with seal having inscription 'RS' and taken into possession vide memo Ex.PZZ/3. Accused Rinku produced a *lathi* (Ex.P73) which was converted into a parcel sealed with seal having inscription 'RS' and taken into possession vide memo Ex.PZZ/5.

On 2.12.2008, the Investigating Officer recorded the statements of PWs Jasmer, Shamsheer and Ramesh injured and they also produced their MLRs which were attached with the file by him.

On 9.12.2008, the Investigating Officer arrested accused Jaipal, who produced a *lathi* (Ex.P47) which was converted into a parcel, sealed with the seal having inscription 'RS' and taken into possession vide recovery memo Ex.PDD. On return to the police station, the Investigating Officer deposited the case property with the MHC and put the accused in lock up. During the course of investigation, the Investigating Officer recorded statements of various witnesses, took into possession several documents. After completion of investigation and other formalities, challan against the accused was prepared and filed in

the Court of learned Chief Judicial Magistrate, Kaithal.

On presentation of challan in the Court of learned Chief Judicial Magistrate, Kaithal, he supplied copies of documents relied upon in the challan to the accused free of costs as provided under Section 207 Cr.P.C. Then finding that the offences under Sections 302 and 307 IPC are exclusively triable by Court of Sessions, learned Chief Judicial Magistrate, Kaithal vide his order dated 24.2.2009 committed the case to the Court of learned Sessions Judge, Kaithal from where it was entrusted to the Court of learned Additional Sessions Judge, Kaithal.

On receipt of case in the Court, learned Additional Sessions Judge, Kaithal, observing that prima facie charge for offences under Sections 148 and 302, 307, 323,332, 353, 186, 427 read with Section 149 was made out against all the accused and in addition to that charge for the offence under Section 25 of the Arms Act was disclosed against accused Hari Pal, Krishan Kumar, Sham Lal, Suresh Kumar, Mohinder Singh, Jaswinder Singh & Jagdev Singh and charge for the offence under Section 30 of the Arms Act against accused Multan Singh directed that the accused be charge-sheeted accordingly. Charge was framed, to which, the accused pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

During the course of its evidence, the prosecution examined as many as 32 witnesses as under:

PW1 Nafe Singh (complainant) cited by the prosecution as an eye-witness of the incident and otherwise to support its case on many aspects let it down and did not support the prosecution version as

regards the incident. Rather he stated that in the month of November, 2008 some one had ploughed their land at night and damaging their crops; that they had moved an application in that regard at Police Station Dhand; that on 27.11.2008, a Panchayat consisting of the people of 8-9 villages was being convened and was in progress in village Chuhan Majra regarding the said occurrence; that some police officials came at village Chuhan Majra and asked them to reach at Police Station Dhand, then he, Fateh Singh, Karambir, Sube Singh, Sultan etc. and 10-20 persons of the village had gone to Police Station Dhand; that from the other side, Jagdev, Hari Pal, Sham Lal etc. had gone to the police station at Dhand and from the MHC of that police station, they came to know about the firing incident which had taken place at village Chuhan Majra; that on this information, they along with the police officials went to village Chuhan Majra. According to this witness, he does not know who had fired as the occurrence had already been taken place and they were not present at that time. He further deposed that accused present in Court at that time namely Hari Pal, Sham Lal, Jagdev, Krishan, Multan, Paramjit, Suresh did not fire. This witness was declared hostile at the request of Public Prosecutor, who was allowed to cross-examine him. During cross-examination, he was confronted with some portions of statement Ex.PA made by him before the police at the time of recording of his statement under Section 161 Cr.P.C. wherein it was so recorded but he denied having made such statement before the police and nothing could be extracted from the mouth of this witness in favour of prosecution version during such cross-examination.

PW2 Pardeep Kumar son of Karan Singh @ Roshan Lal,

another eye-witness cited by the prosecution did not toe its line and rather stated that on 27.11.2008, he had gone to village Chuhan Majra to meet Nafe Singh, who is his brother-in-law (Jija); that there was mob of about 200-300 persons outside the village of Chuhan Majra and a firing incident had taken place in which he sustained pellets injuries. Neither he could identify the accused present in Court at that time nor he could say if they were present in the mob. He further deposed that police had not recorded his statement. He was also declared hostile at the request of Public Prosecutor, who was allowed to cross-examine him. During cross-examination, he was confronted with some portions of statement Ex.PC made by him before the police at the time of recording of his statement under Section 161 Cr.P.C. wherein it was so recorded but he denied having made such statement before the police and nothing could be elicited from the mouth of this witness in favour of prosecution during such cross-examination.

PW3 Sube Singh, PW4 Karambir Singh, PW5 Fateh Singh, PW6 Ramesh, PW7 Shamsher Singh, PW8 Jasmer Singh and PW10 Krishan, all of them being projected as eye-witnesses by the prosecution also did not support the prosecution and they were declared hostile witnesses at the request of learned Public Prosecutor, who was allowed to cross-examine them. During their cross-examination, they denied having made statements Ex.PD, Ex.PE, Ex.PF, Ex.PG, Ex.PH, Ex.PJ and Ex.PL, respectively. Their lengthy cross-examination by the Public Prosecutor failed to get any reply favourable to the prosecution.

PW9 Sh.Jagan Nath Mishra, Reader to District Magistrate, Kaithal proved sanction orders Ex.PK, Ex.PK/1 to Ex.PK/4 which had

been issued by District Magistrate, Kaithal for the prosecution of accused Sham Lal, Krishan, Hari Pal, Suresh Kumar and Jagdev Singh under the Arms Act, 1954.

PW11 Dr.R.D. Chawla, Medical Officer, General Hospital, Kaithal deposed that on 28.11.2008 at 10:30 A.M., on police application Ex.PM, he along with other members of the medical board conducted post-mortem examination on the dead body of Satpal son of Chandan, aged 35 years, male, resident of village Bandrana, which was brought by ASI Balwan Singh, Police Station Dhand and identified by Fateh Singh son of Chatter Singh and Sube Singh son of Ran Singh, residents of village Chuhar Majra. On examination, he found the following injuries on the dead body:

- “1. There was a punctured wound on the right cheek with blackening of margins with a diameter of .4 to .5 cm. Clotted blood was around it.
2. There was a punctured wound on the left cheek with blackening of the margins. Margins were irregular with a diameter of .4 to .5 cm. Clotted blood was around it. On deep dissection fracture of maxillary antrum with clotted blood was present in the nasal cavity and in the oral cavity.
3. There were three punctured wounds on the right shoulder with irregular margins. One was on the right clavicular region, another on right shoulder joint superior aspect and third was on right shoulder near axillary line approximately .4 to .5 cm in diameter. Clotted blood was present around it and there was blackening of skin around it.

4. There was punctured wound with irregular margins on the right side of chest .4 to .5 cm in diameter with blackening of skin around it and clotted blood was also present around it.

5. There was a punctured wound on the left side of chest on the sterno clavicular joint at the level of 7th and 8th ribs. On deep dissection, there was a tract through the muscles with haemopericardium with puncture in the left ventricle of the heart and on exploration, one pellet recovered from the left ventricle.

6. There was a punctured wound on the left shoulder anterior aspect .3 to .4 cm in diameter. Blackening of the skin was around it.

7. There was a punctured wound on the right arm near the elbow joint .4 to .5 cm in diameter with blackening of skin around it and clotted blood was also present there.

8. There was a punctured wound on the right sheen .4 to .5 cm in diameter with lacerated margins and clotted blood was present around it.

All the organs were pale and healthy except heart. Liquid material was present in the stomach.

The witness stated that in their opinion, the cause of death in this case was due to shock and haemorrhage due to puncture in the heart by the pellet with haemopericardium, which was sufficient to cause death in the normal course of life. The injuries were ante-mortem in nature and caused by fire-arms. The time that elapsed between

injuries and death was within few minutes and between death and post-mortem was within 12-24 hours. He further proved post-mortem report as Ex.PM/1, skiagram as Ex.PM/2, inquest proceedings signed by him as Ex.PM/3 and x-ray films as Ex.PM/4 & Ex.PM/5.

PW12 EHC Baljeet Singh deposed that on 27.11.2008 while posted at Police Station Dhand, he was assigned the duties of driver on gypsy No.HR-64-1403; that the information was received at the police station that there had been a firing incident in village Chuhan Majra, on which ASI Balwan Singh along with other police officials had boarded the abovesaid gypsy driven by him and they reached village Chuhan Majra at about 2:00 p.m.; that after their arrival in village Chuhan Majra, PCR Vehicle bearing No.HR-08D-6662 also reached there; that at the spot he saw Hari Pal, Jagdev, Krishan, Multan, Paramjit and others also, who were carrying rifle, country-made pistols and lathis; that accused Multan was possessing a rifle, Paramjit accused was having a *gandasi*, other persons were also possessing *lathis* and *gandasis*; that accused Paramjit had raised *lalkara* that vehicles of the police be smashed and on hearing the same about 25-30 persons came there; that ASI Balwan and other police officials tried to resist the action of said 25-30 persons but the assailants snatched both the vehicles of police; that all the above-said 25-30 persons including Jaipal, Joginder, Mahesh etc. had broken the gypsy; that he was caused injuries on the back of his head by accused Jai Pal by giving *lathi* blow. This witness was declared hostile at the request of Public Prosecutor, who was allowed to cross-examine him. During cross-examination by learned Public Prosecutor, he stated that his statement was recorded by the

Investigating Officer in this case in which he had told the police that accused Hari Pal, Jagdev, Sham Lal, Krishan, Multan and Suresh were having firearm weapons in the shape of country-made pistol and accused Multan was having a rifle at that time; that he had also told the police that Paramjit was armed with a *gandasi*; that Ram Parshad was also armed with *gandasi*; that Jaswinder was armed with a sword, Balwan was armed with a *gandasi* and Mohinder was armed with a sword whereas Jai Pal was armed with a *lathi*. He had also told the police that accused Joginder, Ramesh, Naresh, Sandeep, Pardeep, Babu Ram and Rinku were armed with *lathis*. Volunteered, about their names he had come to know subsequently. He further deposed that he was medico legally examined at General Hospital, Kaithal on the same day and he was caused injuries by accused Jai Pal, Joginder and Ramesh.

PW13 Constable Pala Ram deposed that on 27.11.2008 while posted at Police Station Dhand, he was assigned the duty as a driver on PCR 1 bearing No.HR-08-D-6662; that at about 1:45 p.m., a verbal transmission message was received that there had been a firing incident in village Chuhar Majra, on which he brought HC Chhatar Singh, EHC Rajbir Singh to the place of occurrence in PCR vehicle; that the remaining police officials ASI Balwan Singh etc. had gone to the place of occurrence in gypsy No.HR-64-1403 and they were already present at the place of incident before their arrival; that the firing was continuing at the place of incident at the time of their arrival. He further deposed that he identified Hari Pal, Jagdev etc. there; that 2-3 assailants were carrying country-made pistols; that accused Multan was possessing a rifle and others were also possessing *lathis* and *gandas*; that accused

Paramjit had exhorted that vehicles of the police be smashed and on hearing the *lalkara* 15-20 persons smashed the police vehicles, who were Jai Pal, Hari Pal and 5-7 others and that he also sustained injuries in the incident. This witness was declared hostile at the request of Public Prosecutor, who was allowed to cross-examine him. During cross-examination by learned Public Prosecutor, he stated that his statement was recorded by the Investigating Officer in this case in which he had told the police that accused Hari Pal, Jagdev, Sham Lal, Krishan, Multan and Suresh were carrying country-made pistols at that time and accused Multan was having a rifle and Paramjit was carrying a *gandasi*; that Ram Parshad was also armed with *gandasi*; that Jaswinder was armed with a sword, Balwan was armed with a *gandasi* and Mohinder was armed with a sword whereas Jai Pal was armed with a *lathi*. He also told the police that accused Joginder, Ramesh, Naresh, Sandeep, Pardeep, Babu Ram and Rinku were armed with *lathis*, whose names were told to him subsequently; that he had also made statement that accused Paramjit, Mohinder, Jaswinder, Ram Parshad, Jai Pal, Balwan, Joginder, Ramesh, Naresh, Sandeep, Pardeep, Babu Ram and Rinku had smashed the police vehicles. He further deposed that he was medico legally examined at General Hospital, Kaithal and that he was caused injuries by accused Ram Parshad, Naresh and Sandeep.

PW14 Dr. Om Parkash, Senior Medical officer, General Hospital, Kaithal deposed that on 27.11.2008 at 1:55 p.m. while posted as such, he medico legally examined injured Shamsheer Singh son of Bhag Singh, aged 35 years, resident of village Chuhan Majra. He found the following injuries on his person:

- “1. There was a lacerated punctured wound .5 x .4 cm on lateral aspect of left shoulder. Collar of abrasion was present. Fresh bleeding was present. X-ray was advised.
2. There was a lacerated punctured wound .5 x .4 cm present on lateral aspect of left elbow. Collar of abrasion was present. X-ray was advised.
3. There was a lacerated punctured wound .5 x .4 cm on back of middle of left forearm. Collar of abrasion was present. X-ray was advised.
4. A lacerated punctured wound .5 x .4 cm on dorsum of base of left little finger. X-ray was advised.
5. An abrasion .8 x .6 cm on medial aspect of left hand.
6. An abrasion 2 x .5 cm on front of left elbow.
7. A lacerated punctured wound .6 x .4 cm on left side of chest in anterior axillary line 6 cm below left nipple. X-ray was advised.
8. A lacerated wound 2 x .5 cm on left side of back lower half. X-ray was advised.
9. Two lacerated punctured wound .5 x .4 cm each on left side of abdomen 4 cm apart each other. Collar of abrasion was present. X-ray was advised.
10. Two lacerated wounds .5 x .4 cm each on front of abdomen near umbilicus. X-ray was advised.
11. A lacerated punctured wound .5 x .4 cm on left iliac region of abdomen. X-ray was advised.
12. A lacerated punctured wound .6 x .4 cm on medial

aspect of right thigh just above the knee joint. X-ray was advised.

13. Two lacerated punctured wound .6 x .4 cm each on lateral aspect of thigh left side upper half. X-ray was advised.

14. A lacerated punctured wound .6 x .4 cm on front of left thigh lower half. X-ray was advised.

15. A lacerated punctured wound .6 x .4 cm on lateral aspect of left knee. X-ray was advised.”

Injuries No.1 to 4, 7 to 15 were subjected to x-ray. Injuries No.5 and 6 were kept under observation. The kind of weapon used was firearm and all the injuries were caused within the probable duration of six hours. He proved medico-legal report of injured Shamsheer Singh as Ex.PN. He further deposed that on the same day, he sent ruka Ex.PN/1 to Incharge, Police Station City, Kaithal regarding admission of the injured.

PW15 Dr.Amit Sharma, Medical officer, General Hospital, Kaithal deposed that on 27.11.2008 at 10:55 p.m. while posted as such, he medico legally examined injured Baljeet Singh son of Har Swarup, aged 42 years male, Head Constable, Police Station Dhand, District Kaithal. He found the following injuries on his person:

“1. There was complain of pain in right lower chest. No mark of injury was seen. X-ray was advised. The injury was caused by blunt weapon and duration could not be opined.

2. There was a reddish bruise on left side of neck of

size 3 x 4 cm. It was caused by blunt weapon and was simple in nature. The duration of injury was within 24 hours.

3. There was a small abrasion of size .4 x .4 cm on left frontal region with clotted blood overlying it. It was caused by blunt weapon and was simple in nature. The duration of this injury was within 24 hours.”

He proved medico-legal report of injured Baljeet Singh as Ex.PO.

He further deposed that on the same day at 11:05 p.m., he also medico-legally examined Pala Ram son of Sh.Lakshman Singh, aged 42 years male, Jat, Constable, Police Station Dhand and found the following injuries on his person:

“1. There was an abrasion with underlying bruise on left side of neck of size 4 x 3 cm. The injury was caused by blunt weapon and it was simple in nature. The duration of injury was within 24 hours.

2. The patient was complaining of pain left side chest. No external mark of injury was seen. X-ray was advised. It was caused by blunt weapon. The duration of injury was within 24 hours.”

He proved medico-legal report of injured Pala Ram as Ex.PQ.

PW16 Jagar Singh, Patwari, Halqa Sangroli brought the register of Khasra girdawaris of village Chuhar Majra, Tehsil and District Kaithal. He had seen khasra girdawari Ex.P10 in the judicial file

and stated that the same was correct according to record and prepared by him.

PW17 ASI Jai Kishan deposed that on 5.2.2009, he produced photostat copies of registration certificates of vehicle No.HR-64-1403, Trax No.HR-08D-6662 and photostat copies of bills of repair and the same were taken into police possession vide memo Ex.PR. He proved photocopies of R.C. as Mark A & B and the copies of bills as Mark A/1 and Mark B/1.

PW18 HC Raj Kumar and PW19 HC Devi, formal witnesses tendered in evidence their affidavits Ex.PS and Ex.PT submitting that the same be read as a part of their statements.

PW20 Head Constable Sukhbir Singh deposed that on 27.11.2008, while posted as such at Police Station Dhand, he along with other police officials went to village Chuhan Majra with ASI Balwan Singh on receipt of information about the quarrel in the village; that when they went there and found Satpal as having been dead. He further deposed regarding taking part in investigation with Investigating Officer Raj Singh SI and corroborated his statement.

PW21 Constable Amarjeet Singh deposed that on 27.11.2008, while posted as such at Police Station Dhand, special reports, which were handed over to him by MHC Ved Parkash for delivering the same to Illaqa Magistrate, S.P. and DSP, he promptly delivered the same.

PW22 ASI Chattar Singh deposed that on 28.11.2008 while posted as Head Constable at Police Station Dhand, he was present with SI/SHO Raj Singh in connection with the investigation of the present case.

He corroborated the statement of PW SI Raj Singh (Investigating Officer) and deposed in that regard.

PW23 EHC Baljeet Singh deposed that on 28.11.2008 while posted as such, he mechanically examined Tempo Trax Jeep No.HR-08D-6662 and gypsy No.HR-64-1403. He proved mechanical reports Ex.POO and Ex.POO/1, respectively.

PW24 EHC Rajbir Singh deposed that on 28.11.2008, while posted at Police Station Dhand, he joined the investigation of this case with SI/SHO Raj Singh; that accused Suresh Kumar present in Court on that day in his presence got recovered a country made pistol along with a live cartridge from his residential house situated at Pai Gate, Pundri. He corroborated the statement of SI/SHO Raj Singh (Investigating Officer) regarding preparing of sketch of pistol, converting into sealed parcel and taking it into possession.

PW25 Constable Sandeep Kumar deposed that on 27.11.2008, he visited the spot in village Chuhar Majra and took snaps of the spot from different angles with the help of digital camera. He proved photographs Ex.P49 to Ex.P65.

PW26 SI Roshan Lal deposed that on 5.12.2008 while posted at Police Station Dhand, he recorded the statements of Sandeep Kumar, Photographer, MHC Ved Parkash, EHC Devi Chand and Motor Mechanic Baljeet Singh under Section 161 Cr.P.C.

PW27 Dr.D.C. Thukral, Medical Officer, Civil Hospital, Kaithal deposed that on 27.11.2008 while posted as such, he medico-legally examined Pardeep son of Roshan Lal, Ror by caste, resident of Daya Nand Colony, Karnal. There was history of assault at village

Chuhar Majra, Police Station Dhand. On examination, he was found conscious and oriented, Pulse 76 per minute. B.P. was 120 mm. He found the following injuries on his person:

- “1. There was a lacerated punctured wound .5 x .4 cm on the left side of neck. Oozing of blood was present. X-ray was advised.
2. There was a punctured lacerated wound .5 x .2 cm on the right forearm, 8 cm below right elbow posterior part. X-ray was advised.
3. There was a punctured lacerated wound .5 x .2 cm on right abdomen 7 cm lateral to umbilicus. X-ray was advised.
4. A punctured lacerated wound .3 x .2 cm on left chest which is 5 cm upper lateral to left nipple. X-ray was advised.
5. A lacerated punctured wound .5 cm x .2 cm on right thigh upper anterior part. X-ray was advised.
6. A lacerated punctured wound .2 x .2 cm on right leg upper part. X-ray was advised.”

All the injuries were kept under observation for x-ray and were caused by firearms and the duration of injuries was within six hours. He proved carbon copy of MLR as Ex.PRR.

On the same day at 4:40 p.m., he medico-legally examined Ramesh son of Bharat Lal, aged 22 years male, resident of village Chuhar Majra. There was history of assault and firearm injuries. On examination, he was found conscious and oriented, pulse 72 per minute.

B.P. 120 mm. He found the following injury on his person:

“1. A punctured lacerated wound .5 x .4 cm on the right chest lateral side middle part about 6 inch below the axilla. There was burning around. It was advised x-ray and surgeon's opinion.”

The injury was kept for x-ray and Surgeon opinion. The injury was possibly caused by firearm subject to x-ray and Surgeon opinion. The period was within six hours. He proved carbon copy of MLR as Ex.PSS and OPD slip as Ex.PSS/1.

On the same day, he also medico-legally examined Jasmer son of Risal Singh, aged 26 years, male, resident of village Pabnawa, Police Station Dhand. There was history of firearm injury. On examination, he was found conscious and oriented. Pulse 80 per minute. B.P. was 120 mm. He found the following injuries on his person:

“1. A lacerated punctured wound .3 x .3 cm on the left hand which was 3 cm below the base of left little finger. Burning of margins was seen. Advised x-ray and Surgeon opinion.

2. An abrasion .3 x .3 cm with redness around on the right knee, medial part. Advised x-ray and Surgeon opinion.”

Both the injuries were kept under observation for x-ray and Surgeon opinion. The injuries were possibly caused by firearm. The duration of injuries was within six hours. He proved carbon copy of MLR as Ex.PTT and OPD slip as Ex.PTT/1.

He further deposed that he sent ruka Ex.PUU to SHO Police Station City, Kaithal regarding admission of Pardeep son of Roshan Lal.

PW28 SI Balwan Singh, who had initially carried out the investigation in this case and later on joined in the same deposed in that regard proving various documents.

PW29 EASI Ved Parkash deposed that on 28.11.2008 while he was posted as MHC at Police Station Dhand, he received ruka Ex.PA through Constable Parvesh Kumar written by ASI Balwan Singh and recorded formal FIR Ex.PA/3. He sent special report of this case through Constable Amarjit for delivering the same to the higher officers. He proved his endorsement Ex.PA/4. He further tendered in evidence his affidavit Ex.PCCC submitting that the same be read as a part of his statement.

PW30 SI Anand Parkash deposed that on 14.1.2009, while he was posted as SI/SHO Police Station Dhand, the investigation of this case was entrusted to him and he recorded the statement of Ujagar Singh, Patwari under Section 161 Cr.P.C., who prepared scaled site plan. On 26.1.2009, he obtained sanction order against accused Hari Pal etc. ; that on 28.1.2009, Nafe Singh PW produced some revenue documents which were seized vide memo Ex.PB/5; that he prepared report under Section 173 Cr.P.C. against 44 accused in this case; that on 5.2.2009, Jai Kishan, Motor Training Officer (EASI) produced photocopy of the RC of the vehicles and receipts/bills being Mark-A, Mark-A/1, Mark-B, Mark-B/1 and Mark-B/2 and the same were seized vide recovery memo Ex.PR. He further deposed that on 18.4.2009, the

investigation of this case was again handed over to him; that on that day accused Jagdev Singh surrendered in the Court; that he interrogated accused Jagdev Singh with the permission of the Court and arrested him, who on further interrogation suffered disclosure statement Ex.PAAA which was reduced into writing and signed by accused Jagdev Singh and attested by ASI Ved Parkash and Constable Govind; that thereafter accused was again produced in the Court and his police remand was obtained and was put up in the lock up in Police Station Dhand. He further deposed that on 19.4.2009, accused Jagdev Singh was again interrogated in the presence of EASI Ved Parkash and Parwara PW. Accused retracted from his previous statement and suffered another disclosure statement Ex.PBBB disclosing that he had kept concealed a country-made pistol of 315 bore in an iron box lying in his house in a room. That disclosure statement was reduced into writing and signed by accused and attested by same witnesses; that thereafter accused Jagdev led the police party to his residential house and got recovered country-made pistol 315 bore along with live cartridge. Rough sketch of pistol being Ex.PBBB/1 was prepared which was signed by ASI Ved Parkash and PW Parwara; that pistol and cartridge were converted into a parcel, sealed it with seal bearing inscription AP and taken into possession vide recovery memo Ex.PBBB/2 which was also signed by the same witnesses. He further deposed that thereafter accused led the police party at the place of occurrence and demarcated the place and regarding it memo of demarcation was prepared, the same being Ex.PBBB/3 which was signed by accused Jagdev and attested by the same witnesses. He also prepared the rough site-plan of the place of recovery as Ex.PBBB/4;

that he also recorded the statements of PWs and on return to the police station, he deposited the case property with MHC and put the accused in police lock-up and that after completion of investigation, he prepared report under Section 173 Cr.P.C. on 28.4.2009 against accused Jagdev after obtaining the sanction etc. Pistol being Ex.P74, the same was recovered from the accused.

PW31 Ram Lal deposed that he had repaired vehicles No.HR-08-D/6662 and HR-64-1403. He proved the photocopies of bills of abovesaid vehicles as Ex.PDDD and Ex.PDDD/1, which as per this witness were issued by him.

PW32 Inspector Raj Singh, who had carried out the investigation in this case deposed in that regard proving various documents.

Learned Public Prosecutor tendered in evidence report Ex.PHHH of FSL, Madhuban (Karnal).

With that the prosecution evidence got concluded.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against them were put to them but they denied the allegations contending that they are innocent and had been falsely involved in this case.

Accused did not lead any evidence in defence.

With that defence evidence of accused was closed.

After hearing arguments, learned trial Court convicted and sentenced accused Hari Pal, Multan Singh, Suresh Kumar, Jagdev Singh, Krishan Kumar, Sham Lal and Jasminder Singh as mentioned above, which left them aggrieved and they have filed the present appeal.

We have heard learned counsel for the appellants – accused - convicts, learned Assistant Advocate General for the State of Haryana besides going through the record and we find that the appeal has element of merit inasmuch as the impugned judgment is not sustainable to the extent of conviction of appellants as regard offence under Section 302 read with Section 34 IPC and conviction and sentence of accused for such offence is liable to be set aside.

It is pertinent to mention here that the eye-witnesses of the incident including the injured witnesses examined by the prosecution during the trial did not support the prosecution story at all and rather let it down with the result they were declared hostile witnesses at the instance of learned Public Prosecutor who as per his request was permitted to put questions to these witnesses in the form of cross-examination. However, cross-examination of such witnesses did not result in any reply favourable to the prosecution coming out from their mouths. The trial Court has relied heavily upon the report from Forensic Science Laboratory so as to come to the conclusion that from the checking/analysis of the fire-arms and empty shells of the cartridges so recovered, an opinion has been given by the Ballistic Expert from FSL that shots had been fired from such fire-arms and that the empty shells were recovered from the spot, that means the shots had hit the deceased. However, the accused – convicts could not be connected with the crime in such a manner more particularly when evidence is clearly lacking that the shot fired by such convicts had hit the deceased resulting in his death. As per the prosecution story, besides the accused – convicts other persons were also having country-made pistols. There is every

possibility that shots fired by some other persons from the mob had hit the deceased resulting in his death and no presumption can be drawn that the shots fired from the weapons recovered from the possession of accused had hit the deceased. The evidence is not there that it were the accused – convicts who had fired shots from the fire-arms recovered from their possession later on. As regards the depositions of PW12 EHC Baljeet Singh and PW13 Constable Pala Ram, those are regarding the second part of the incident in which the police vehicles were allegedly attacked and damaged and police officials were injured, they too did not support the prosecution story fully and were declared hostile witnesses. Their testimonies do not inspire much confidence and we do not find it safe to rely upon statements of such type of witnesses who take vacillating stand. Even otherwise, the trial Court has not convicted any of the accused as regards second part of the incident i.e. attacking the police vehicles resulting in damage to those and inflicting injuries to police officials. The State has not preferred any appeal in that regard. Therefore, that question cannot be re-opened. With there being no cogent, convincing, reliable incriminating eye-witness account available, the prosecution had failed in its endeavour to establish its charge against the accused – convicts Hari Pal, Suresh Kumar, Multan Singh and Jagdev Singh for the offence under Section 302 read with Section 34 of the IPC. Furthermore, if we go by circumstantial evidence then many vital links in the chain are missing and no irresistible conclusion can be drawn against such accused as regards charge for offence under Section 302 read with Section 34 IPC. Therefore, we find that the approach of the learned trial Court in coming to the conclusion that charge for

offence under Section 302 read with Section 34 IPC stood proved against accused – convicts was misconceived and based upon wrong interpretation of law and misappraisal of evidence. Rather, a reasonable doubt arises in mind about truthfulness of the prosecution story. As per settled law in such an eventuality benefit of doubt is to be given to the accused, therefore, accused – convicts are definitely entitled to be given benefit of doubt as regards their conviction and sentence for the offence under Section 302 read with Section 34 IPC.

However, we find that there is no reason to upset the conviction and sentence of accused – convicts as regards offence under the Arms Act since the prosecution has led sufficient, cogent and convincing evidence to show that the accused – convicts had suffered disclosure statements while being interrogated during the period of police custody and in pursuance thereof had got arms and ammunition recovered from their possession without possessing any licence for their retention. Sanction for prosecution has been duly granted as is evident from the statement of PW9 Jagan Nath Mishra, Reader to District Magistrate, Kaithal. The reasoning given by the trial Court while arriving at the conclusion that charge under Section 25 of the Arms Act against accused – convicts Hari Pal, Suresh Kumar, Jagdev Singh, Krishan Kumar, Sham Lal and Jasinder Singh and under Section 30 against accused – convict Multan Singh stood established is quite convincing and there is no reason to differ with the same.

Resultantly, the appeal of Jagdev Singh – appellant is disposed of as having abated. The conviction and sentence of Hari Pal, Multan Singh and Suresh Kumar appellants under Sections 302/34 IPC

is set aside. The conviction of the appellants excepting Jagdev Singh under the provisions of the Arms Act alongwith their sentences of imprisonment and fine is maintained. The appeal of the appellants excepting Jagdev Singh is partly allowed to the extent indicated above.

27.3.2017	(T.P.S. MANN)	(H.S.MADAAN)
Brij	JUDGE	JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No