

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

Crl. Appeal S-401-SB of 2004
Date of Decision : July 27, 2017

Baldev Singh and others

.....Appellants

VERSUS

State of Punjab

.....Respondent

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

Present : Mr. Kulvir Narwal, Advocate
for the appellants.

Mr. Jagmohan Ghumman, Deputy A.G., Punjab.

None for the complainant.

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

The appellants, six in number, alongwith eight others, were tried for committing offences punishable under Sections 148, 307/452/427/149 IPC and Section 27 of the Arms Act. Two of them, namely, Mohinder Singh and Balbir Singh died during the trial and as such, proceedings against them stood abated. Vide judgment and order dated 04.02.2004, learned Additional

Sessions Judge (Adhoc), Faridkot, acquitted Zora Singh, Jalour Singh, Darshan Singh, Gurdial Singh, Surjit Singh and Ranjit Singh of the charges against them but convicted and sentenced the appellants as under:

- i) Rigorous imprisonment for one year each under Section 148 IPC;
- ii) Surain Singh and Malkiat Singh under Section 307(Part 1) IPC whereas Baldev Singh, Nachhattar Singh, Harbhagwan Singh and Niranjana Singh under Sections 307/149 IPC to undergo rigorous imprisonment for three years and to pay a fine of Rs. 1,000/- each and in default of payment of fine, to undergo further rigorous imprisonment for two months;
- iii) Rigorous imprisonment for nine months each under Sections 427/149 IPC;
- iv) Rigorous imprisonment for two years each under Sections 452/149 IPC; and
- v) Surain Singh and Malkiat Singh under Section 27 of the Arms Act, to undergo

rigorous imprisonment for two years each.

All the sentences were ordered to run concurrently.

Aggrieved of their conviction and sentence, the appellants filed the present appeal which was admitted on 20.02.2004 and their substantive sentences of imprisonment were also suspended. Complainant Sadhu Singh also filed Criminal Revision 2139 of 2004, praying therein for enhancing the sentences of imprisonment of the convicts/appellants. The said revision petition was ordered to be heard alongwith present appeal. Against the acquittal of the complainant-party, Harbhagwan Singh-appellant filed Criminal Revision 1257 of 2004, which revision was also ordered to be heard along with the present appeal.

According to the prosecution, on 25.11.1994 at about 5.00 a.m., the appellants and their co-accused came on tractors and surrounded the house of complainant-Sadhu Singh. They started abusing him and indulged in firing. However, the firing hit against the walls of the house. All the accused demolished the wall of the house of the complainant and entered his courtyard. In order to save themselves, Jit Singh fired from his licensed gun. On account of said firing, all the accused ran away from the courtyard.

It may be mentioned here that during the pendency of the appeal Surain Singh, one of the appellants expired. After

seeking an adjournment, learned State counsel placed on record the short affidavit of Deputy Superintendent of Police, Baghapurana, District Moga, as per which the factum of death of Surain Singh-appellant stood duly verified.

Learned counsel for the appellants has not challenged the impugned judgment of conviction passed by the learned trial Court. However, he has submitted that the surviving appellants are facing the agony of criminal prosecution for the last about twenty three years. None of them is a previous convict. Baldev Singh, Nachhattar Singh, Harbhagwan Singh and Niranjan Singh, appellants, had also received injuries at the time of the occurrence. Further, they are on bail for the last more than thirteen years. All this while, none of them has misused the concession of bail. Prayer has accordingly been made for taking a lenient view in the matter of sentence of their imprisonment. Learned counsel for the appellants also submits that he may be allowed to withdraw the revision filed by Harbhagwan Singh-appellant for challenging the acquittal of the complainant-party in the cross case.

Learned State counsel has opposed the prayer by submitting that the surviving appellants while armed with deadly weapons had surrounded the house of the complainant and, thereafter, indulged in firing. They also demolished the wall of the house of the complainant. Learned State counsel has, however,

produced the custody certificates, as per which Baldev Singh, Nachhattar Singh, Niranjana Singh and Harbhagwan Singh appellants have undergone a period of twenty days whereas Malkiat Singh-appellant has undergone eleven days. None of them is shown to be either involved or convicted in any other case.

After hearing learned counsel for the parties, this Court is of the view that no useful purpose will be served by sending the surviving appellants behind the bars, once again, for undergoing their remaining sentence of imprisonment. Ends of justice would be suitably met, if their substantive sentences of imprisonment are reduced to the one already undergone by them. At the same time, the fine of Rs.1,000/- imposed upon each of them can be suitably enhanced so as to compensate the complainant, namely, Sadhu Singh.

Resultantly, the appeal on behalf of Surain Singh-appellant stands abated. The conviction of the surviving appellants, namely, Baldev Singh, Malkiat Singh, Nachhattar Singh, Niranjana Singh and Harbhagwan Singh, as recorded by the learned trial Court is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. However, the fine of Rs.1,000/- imposed upon them is enhanced to Rs.10,000/- each. The aforesaid surviving appellants shall

deposit the fine amount in the Court of learned Chief Judicial Magistrate, Faridkot, within a period of three months, from today, failing which they shall undergo simple imprisonment for three months each. The amount of fine, when deposited by them, be disbursed in favour of complainant-Sadhu Singh, as compensation.

Criminal Appeal S-401-SB of 2004 and Criminal Revision 2139 of 2004 are, accordingly, disposed of whereas Criminal Revision 1257 of 2004 is dismissed as withdrawn.

July 27, 2017
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(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No