

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

CRA-S-1235-SB of 2005

DATE OF DECISION :- August 23, 2017

Kulwinder Singh and others

...Appellants

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Appellants Karamjit Singh and Karnail Singh in custody
with Mr. Ranjan Lakhanpal, Advocate for the appellants.

Ms. Jaspreet Kaur, Assistant Advocate General, Punjab.

This appeal is directed against the judgment dated 7.7.2005 passed by the Court of Additional Sessions Judge, Fatehgarh Sahib vide which accused Kulwinder Singh, Karamjit Singh, Jagdev Singh and Karnail Singh were acquitted of charges under Section 307 of the Indian Penal Code and 307/34 of the Indian Penal Code and were convicted and sentenced as follows :-

1. SENTENCE WITH REGARD TO KULWINDER SINGH
 - i. He was sentenced to undergo nine months rigorous imprisonment under Section 324/34 IPC for causing injuries to Bhajan Singh.
 - ii. He was sentenced to undergo one years' rigorous

imprisonment for the offence under Section 325/34 IPC for causing injuries to Jagdish Singh and fine of Rs.500/- (five hundred) and in default of payment of fine, rigorous imprisonment for 15 days.

- iii. He was sentenced to undergo four months rigorous imprisonment under Section 323 IPC for causing injury to Gurmail Singh.
- iv. He was sentenced to undergo four months rigorous imprisonment under Section 323/34 IPC for causing injuries to Bhajan Singh, Gurmail Singh and Jagdish Singh.
- v. He was sentenced to four months rigorous imprisonment for the offence under Section 323/34 IPC for causing injuries to Gurmail Singh.

2. SENTENCE WITH REGARD TO KARAMJIT SINGH

- i. He was sentenced to undergo nine months rigorous imprisonment under Section 324/34 IPC for causing injuries to Bhajan Singh.
- ii. He was sentenced to undergo one years' rigorous imprisonment for the offence under Section 325/34 IPC for causing injuries to Jagdish Singh and fine of Rs.500/- (five hundred) and in default of payment of fine, to further undergo 15 days rigorous imprisonment.
- iii. He was sentenced to undergo four months rigorous imprisonment under Section 323/34 IPC for causing

injuries to Gurmail Singh.

- iv. He was sentenced to undergo four months rigorous imprisonment under Section 323 IPC for causing injuries to Bhajan Singh, Gurmail Singh and Jagdish Singh.
- v. He was sentenced to four months rigorous imprisonment under Section 323/34 IPC for causing injuries to Gurmail Singh.

3. SENTENCE WITH REGARD TO JAGDEV SINGH

- i. He was sentenced to undergo nine months rigorous imprisonment under Section 324 IPC for causing injuries to Bhajan Singh.
- ii. He was sentenced to undergo one years' rigorous imprisonment for the offence under Section 325/34 IPC along with fine of Rs.500/-(five hundred) and in default of payment of fine to further undergo rigorous imprisonment for 15 days, for causing injuries to Jagdish Singh.
- iii. He was sentenced to undergo four months rigorous imprisonment under Section 323/34 IPC for causing injuries to Gurmail Singh.
- iv. He was sentenced to undergo four months rigorous imprisonment under Section 323/34 IPC for causing injuries to Bhajan Singh, Gurmail Singh and Jagdish Singh.
- v. He was sentenced to four months rigorous imprisonment

under Section 323/34 IPC for causing injuries to Gurmail Singh.

4. SENTENCE WITH REGARD TO KARNAIL SINGH

- i. He was sentenced to undergo nine months rigorous imprisonment under Section 324/34 IPC for causing injuries to Bhajan Singh.
- ii. He was sentenced to undergo one years' rigorous imprisonment for the offence under Section 325 IPC for causing injuries to Jagdish Singh and a fine of Rs.500/- (five hundred) and in default of payment of fine to further undergo rigorous imprisonment for 15 days.
- iii. He was sentenced to undergo four months rigorous imprisonment under Section 323/34 IPC for causing injuries to Gurmail Singh.
- iv. He was sentenced to undergo four months rigorous imprisonment under Section 323/34 IPC for causing injuries to Bhajan Singh, Gurmail Singh and Jagdish Singh.
- v. He was sentenced to undergo four months rigorous imprisonment under Section 323 IPC for causing injuries to Gurmail Singh.

All the sentences were ordered to run concurrently.

On an application having been filed, sentence of convicts was suspended by the trial Court while exercising powers under Section 389 (2) Cr.P.C. till 6.8.2005 on their furnishing personal and surety bonds and

depositing of fine. Fine was accordingly deposited and bonds were furnished.

Feeling aggrieved by the said judgment of their conviction and sentence, the accused-convicted knocked at the doors of this Court by way of filing the appeal.

The appeal came up for hearing before this Court on 25.7.2005. It was admitted and was further directed that if the appellants are on bail on the basis of suspension of sentence by the learned trial Court, then they shall continue on bail till the disposal the appeal on furnishing fresh bail bonds to the satisfaction of the trial Court. Said bonds are said to have been furnished. However, since on 31.7.2017, there was no representation on behalf of the appellants. The order dated 25.7.2005 was recalled and appellants were directed to be summoned through non bailable warrants of arrest for today. The appellants have since been arrested in execution of non bailable warrants of arrest and are being produced in this Court by ASI Hardev Singh from Model Jail, Nabha. Regarding the remaining two appellants, the learned State counsel on instructions from ASI Inderjit Singh from Police Station Bassi Pathana, District Fatehgarh Sahib confirms the fact of death of such appellants. Sh. Baljinder Singh, Sarpanch of village Bhuchhon, Police Station Bassi Pathana is also present as identified by ASI Inderjit Singh from Police Station Bassi Pathana. Sarpanch also confirms the factum of death of appellants Kulwinder Singh and Jagdev Singh. As such, the appeal qua them stand abated.

I have heard learned counsel for the appellants and learned State counsel, besides going through the record.

Learned counsel for the appellants at the very outset had stated that he does not challenge the impugned judgment as far as conviction part is concerned though he has a request as regards the sentence part. He has contended that appellant Karnail Singh is aged 85 years and does not keep good health. He cannot walk properly and is in evening of his life. Whereas accused-convict Karamjit Singh is aged about 43 years, married having two unmarried children and his daughter is of marriageable age. He has contended that both the appellants are first offenders and do not have any past criminal record. Therefore, they be granted benefit of probation.

Learned State counsel has contended that keeping in view the facts and circumstances of the case, the prayer made by learned counsel for the appellants may be considered accordingly.

After hearing learned counsel for the appellants, learned State counsel and going through the record, I find that since no previous conviction is alleged or proved against these accused and considering the age and family circumstances of such appellants, it is a fit case to grant benefit of probation to them under Section 360 of the Code of Criminal Procedure read with Section 4(1) of Probation of Offenders Act. Therefore, the impugned judgment is upheld as far as conviction part is concerned but regarding the sentence part, the same is modified and appellants Karamjit Singh and Karnail Singh are directed to be released on probation subject to their furnishing personal and surety bonds to the satisfaction of Chief Judicial Magistrate, Fatehgarh Sahib. They are imposed Rs.500/- each as cost of proceedings. They have already deposited this amount as fine in the trial Court. The same is ordered to be converted into costs.

The appeal stands disposed of.

A photocopy of this order be given to counsel for the parties
under the signatures of Special Secretary of this Court.

(H.S. MADAAN)
JUDGE

August 23, 2017
p.singh

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