

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

CRA-S-242-SB of 2005 (O&M).

Decided on:-04.08.2017.

Harchet Singh.

.....Appellant.

Versus

State of Punjab and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present:- Mr. Aditya Sanghi, Advocate
for the applicant-appellant.

Mr. Bhupender Beniwal, AAG, Punjab.

Mr. A.K. Khunger, Advocate
for respondents No.2 and 3.

HARI PAL VERMA, J.

The appellant has filed the present appeal against the judgment of conviction and order of sentence dated 10.01.2005 passed by learned Additional Sessions Judge (Fast Track Court), Bathinda whereby he was convicted and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.3,000/- for commission of offence under Section 307/323 IPC. In default of payment of fine, the appellant was further sentenced to undergo rigorous imprisonment for three months.

Briefly stated, facts of the prosecution case are that on 03.11.2001, a message was received at Police Post Balluana from SHO Police Station Civil Lines, Bathinda that injured Nachhatar Ram was admitted in the hospital. On this, ASI Balwinder Singh along with other police officials

reached Civil Hospital, Bathinda after obtaining Ruqa. The injured was declared unfit to make statement by the concerned doctor. However, the doctor gave medico-legal report (MLR) of the injured to the investigating officer. In the meantime, Gurpreet Ram son of injured Nachhatar Ram met the investigating officer in the said hospital and gave the MLR to the police showing three injuries on the person of Gurpreet Ram.

Injured Gurpreet Ram made a statement to the investigating officer that he is a resident of village Jhumba Bhaika and an agriculturist by profession. On 03.11.2001, he along with his father Nachhatar Ram was going to their fields situated on the road known as Peori Wali. His father was going 10-15 Karams ahead of him. At about 09.30 AM, when they reached in front of the fields of Shri Ramji, Advocate after crossing the bridge of canal, accused Kaka Singh armed with spade, accused Gurmit Singh armed with Gandhali, accused Jassi Singh armed with spade and accused Harchet Singh armed with harrow were sitting there. On seeing them, all the four accused came on the road and stood in front of his father Nachhatar Ram. Accused Kaka Singh exhorted a Lalkara that Nachhatar Ram be taught a lesson for making complaint with regard to throwing of earth in the fields. On this, accused Harchet Singh (appellant herein) gave a blow with harrow on his father Nachhatar Ram, which struck on his head. The remaining three accused also gave blows on the person of his father with their respective weapons. His father fell down. Then accused Gurmit Singh also gave a Gandhali blow to him (complainant Gurpreet Ram). Both the injured raised an alarm, then all the four accused fled away from the spot along with their respective weapons.

Both the injured were taken to Civil Hospital by Gurbachan Ram, the elder brother of injured Nachhatar Ram.

On the basis of these allegations, the FIR No.134 dated 09.11.2001 under Sections 307 and 323 read with Section 34 IPC was registered against the accused at Police Station Sadar Bathinda. Statements of the witnesses were recorded and after completion of investigation, Challan under Section 173 Cr.P.C. was presented in the Court against accused Kaka Singh, Gurmit Singh and Harchet Singh (appellant herein), whereas name of accused Jassi Singh was kept in Column No.2. Copies of Challan, as envisaged under Section 207 Cr.P.C., were supplied to the accused. As the offence under Section 307 IPC is exclusively triable by the Court of Session, the case was committed to the Court of Session.

Finding a prima-facie case against the accused, they were charge sheeted under Sections 307/323/34 IPC by learned Additional Sessions Judge, Bathinda to which the accused did not plead guilty and claimed trial. Accused Jassi Singh was also summoned to face trial along with other accused on the basis of application under Section 319 Cr.PC moved by the prosecution.

After considering the evidence and hearing the parties, the trial Court, vide judgment dated 10.01.2005 acquitted the accused, namely, Kaka Singh, Gurmit Singh and Jassi Singh of the charge leveled against them. However, appellant Harchet Singh was convicted and sentenced in the manner as mentioned hereinabove.

It is in these circumstances the appellant has approached this Court by filing the present appeal.

At the outset, learned counsel for the appellant has not challenged the conviction of appellant and has confined his arguments qua the quantum of sentence only. He has submitted that with the intervention of respectable persons of the society, the matter has been amicably settled/ compromised between the parties. Moreover, in the present case, the FIR was registered on 09.11.2001 and as against the maximum sentence of five years awarded to the appellant, he has already undergone imprisonment for 2 years 1 month and 26 days including remission. The appellant is first time offender and there is no other case pending against him. In support of his contention, learned counsel has relied upon the judgment of Hon'ble Supreme Court in ***Gulab Dass Versus State of M.P. 2011(10) SCC 765***, wherein the matter was compromised between the parties and the Apex Court while upholding the conviction, had reduced the sentence awarded to the appellants to the period already undergone by them.

He has also placed reliance on the judgment of this Court in ***Inderjit @ Inder Versus State of UT Chandigarh 2011(1) RCR (Criminal) 234***, wherein the parties had entered into a compromise at appellate stage and this Court had reduced the sentence to the period already undergone on the basis of compromise in a case under Section 307 IPC.

On the other hand, learned State counsel has filed the custody certificate and does not dispute the custody of the appellant. The custody certificate is taken on record.

Learned counsel for the respondents No.2 and 3 does not dispute the factum of compromise between the parties. He has submitted that the

respondents No.2 and 3 have no objection in case the sentence awarded to the appellant is reduced to the period already undergone by him.

I have heard learned counsel for the parties.

This Court has scrutinized the impugned judgment passed by the trial Court as well as other relevant documents and evidence available on record and finds that there is no scope of interference with the impugned judgment of conviction passed by learned trial Court. Moreover, learned counsel for the appellant has also not challenged conviction of the appellant on merits and has confined his prayer to the extent of quantum of sentence only. Therefore, the conviction of the appellant is affirmed.

However, taking into consideration the fact that the appellant is facing the agony of criminal proceedings since 09.11.2001; he is first time offender coupled with the fact that during the pendency of the present appeal, both the parties have compromised the matter as well as in the light of ***Gulab Dass' case (supra)*** and ***Inderjit @ Inder's case (supra)***, this Court feels that the ends of justice would be met in case the sentence of imprisonment awarded to appellant Harchet Singh is reduced to the period already undergone by him. As against the awarded sentence of 5 years, the appellant remained in custody for about 2 years 1 month and 26 days including remission. Thus, the sentence awarded is reduced to the period already undergone by the appellant.

However, there will be no change in the sentence of fine.

Besides this, the appellant is directed to deposit Rs.10,000/- as costs with the Punjab State Legal Services Authority, Bathinda within a

period of one month from today, failing which the present appeal shall be deemed to have been dismissed in toto and the appellant shall have to undergo the remaining part of his sentence.

With the aforesaid modification in the order of sentence, the present appeal stands dismissed.

August 04, 2017
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned:	Yes
Whether Reportable:	No