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

CRA-S-2055-SB-2003
Date of Decision : May 3rd,2017

Jagdip Singh and others Appellants

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE [Dr.] SHEKHER DHAWAN

Present Mr. J.S.Bedi, Senior Advocate,
with Mr. Sunil Sihag, Advocate,
for appellant No.2.

Mr. Bipan Ghai, Senior Advocate, with
Mr. Paras Talwar, Advocate,
for appellant No.3.

Mr. Yogesh Kumar Gupta, AAG, Punjab
for the respondent-State.

SHEKHER DHAWAN, J.

Present appeal is directed against the judgment of conviction and order of sentence dated 16.10.2003 passed by learned Additional Sessions Judge [Adhoc], Fast Track Court, Ludhiana whereby the appellants were convicted and sentenced as under:-

Accused-Appellant	Under Section	Sentence	In default
Jagdeep Singh	U/s 307 IPC	to undergo Rigorous Imprisonment for a period of Seven years and to pay a fine of ₹1000/-.	To further undergo RI for three months.

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Accused-Appellant	Under Section	Sentence	In default
Manjinder Singh and Talwinder Singh	U/S 307/34 IPC	to undergo Rigorous Imprisonment for a period of Seven years and to pay a fine of ₹1000/-.	To further undergo RI for three months.

2. Facts relevant for the purpose of decision of the appeal; that on 24.12.2000, at about 12.00 noon, Sandeep Singh, complainant-injured was present alongwith Surinder Singh, Jaswinder Singh and Rachhpal Singh in front of main gate of his house and they were waiting for arrival of *Nagar Kirtan*. Meanwhile, appellant Jagdip Singh called the complainant from his house and when the complainant reached near the house of Jagdip Singh, Manjinder Singh alias Mannu and Talwinder Singh alias Shammi who were already standing there, caught hold of the complainant from his arms and accused Jagdip Singh caused injuries in the abdomen of complainant- Sandeep Singh with a knife. Accused Manjinder Singh also gave a blow on the left arm of the complainant with a knife like sharp instrument. Complainant, Sandeep Singh raised an alarm which attracted Gurcharan Singh, Parkash Singh. On seeing them, all the accused persons fled away from the spot alongwith their respective weapons. As per the complainant, the motive for the alleged occurrence was that a month prior to the occurrence, Manjinder Singh had quarreled with the brother of the complainant upon which, parents of the complainant had expressed grouse by visiting the house of Manjinder Singh. As per the complainant, while

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snatching the knife from Jagdip Singh, he [Jagdip Singh] had also sustained some injuries. The injured-complainant was initially shifted to Primary Health Centre, Machhiwara, from where he was referred to Civil Hospital, Samrala. As the condition of Sandeep Singh was critical, he was taken to CMC and Hospital, Ludhiana, where he was medico-legally examined.

3. On this information, police started the investigation. During investigation, appellant Jagdip Singh was arrested on 4.1.2001 and as per his disclosure statement, one knife was got recovered from his possession on 6.1.2001. After completion of investigation, challan was presented in the Court against accused Jagdip Singh only. Subsequently, on an application under Section 319 Cr.P.C., accused-appellants, Manjinder Singh and Talwinder Singh were summoned to face trial as co-accused vide order dated 3.5.2001.

4. Learned trial Judge framed charges against the appellants for commission of offence punishable under Section 307 read with Section 34 IPC and during trial, examined complainant-Sandeep Singh as PW-1, Gurcharan Singh, an eye-witness to the alleged occurrence as PW-2. Dr. Harpreet Singh from CMC and Hospital, Ludhiana was examined as PW-3, who observed the following injuries on the person of the complainant:-

- “1) Incised wound approximately 3cm in length and 5cm from the umbilicus on left side. Omentum protruding through it with local hematoma formation.
- 2) Sutured wound approximately 2cm long on the posterior aspect of left arm.

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3) Small puncture wound on the medical aspect of left arm.”

5. Dr. Shashi Kiran, Medical Officer, Machhiwara was examined as PW-5 and Dr. Deepak Bansal and Dr. Mohan Verghese were examined as PW-10 and PW-11 respectively. Apart from that, prosecution also examined PW-5, Const. Gurnam Singh, PW-6, Const. Mohinder Singh, PW-7 HC Sham Lal, and PW-12 E. Rai Singh, who were associated in the investigation proceedings. PW-8 SI Sarup Singh and PW-9 SI Rattanjit Singh who had investigated the matter, were also examined by the prosecution at the trial.

6. Accused-appellants were examined under Section 313 Cr.P.C., wherein accused Jagdip Singh took the plea that on 24.12.2000 he was going to collect his trouser from the shop of tailor and when he turned the Main Bazar at about 12 Noon, someone from behind gave blow with iron rod on his head and he fell down and resultantly he received injuries on his lips and nose. Minto alias Pintu son of Darshan Singh, Laddi, Happy and unknown persons came there. He then fled away from the spot. All the injuries were caused by Laddi, Happy and Minto alias Pintu and two unknown persons. Accused-appellants, Manjinder Singh alias Mannu and Talwinder Singh took the plea that Sandeep Singh was residing in their neighbourhood. The grand-father of Sandeep Singh is maternal uncle (Fuffar) of Talwinder Singh. There was a dispute between Manjinder Singh alias Mannu and Happy, brother of Sandeep Singh, complainant. Talwinder

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Singh refused to accompany father of Sandeep Singh to lodge protest against Manjinder Singh alias Mannu. Happy, brother of Sandeep Singh, complainant used to give telephone calls to one Harneet Kaur, who was living in the neighbourhood of Manjinder Singh alias Mannu and mother of Manjinder Singh alias Mannu asked Happy, brother of Sandeep Singh, complainant not to visit their house and because of that enmity they were falsely implicated in this case. In their defence, accused-appellants also examined DW1, Sukhwinder Singh, who deposed that on 24.12.2000 Minto alias Pintu, Happy, Laddi and two other unknown persons were giving beatings to Jagdip Singh. DW2 DR. Shashi Kiran Singh, deposed that on 24.12.2000 at 1.10 p.m. she medico legally examined Jagdip Singh and found the following injuries:-

- 1) A 1" long linear laceration placed over back of scalp approximately 1cm above the occiput (placed horizontal). Advised X-ray skull.
- 2) A irregular shape laceration over buccal mucosa approx. 2.5 cm long placed on the inner aspect of upper lip- about 1 cm to the left of mid-line of lip. No fresh bleeding was present.
- 3) Shaped laceration pointing towards nail of right index finger lateral aspect (proximal phalanx area) size is 1 cm from tip downwards. Fresh bleeding.
- 4) Tenderness and swelling over upper part of nose (upper 1/3rd) Advised X-ray. Nasal spine and ENT consultation.
- 5) Pain both shoulders. No injury marks.
- 6) Pain left wrist area. No injury mark."

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7. DW3 - DR. Jasdev Singh, was examined who had declared Jagdip Singh unfit to make statement vide his endorsement Ex.D1/A and D2/A. DW4 Dr. Balbir Singh had deposed that Jagdip Singh was taken to Civil Hospital, Samrala for radiological examination.

8. After considering the prosecution evidence and the defence version on record, learned trial Judge held the appellants guilty and convicted and sentenced them, as detailed above and as such, aggrieved of passing of judgment of conviction and order of sentence, the appellants are before this Court by way of present appeal.

9. During the pendency of this appeal, accused-appellant Jagdip Singh son of Jagir Singh [appellant No.1] died on 30.10.2014 and the present appeal qua Jagdip Singh, appellant No.1, stands abated vide order dated 29.03.2016, passed by this Court.

10. Learned counsel representing Manjinder Singh and Talwinder Singh contended that the Court below has completely ignored certain basic facts. Initially, the police had investigated the matter and report under Section 173 Cr.P.C. was submitted against appellant, Jagdip Singh only. Appellants, Manjinder Singh and Talwinder Singh were found innocent during investigation as the only allegation against them was of catching hold of injured-Sandeep Singh and that was found to be incorrect and false. There was no recovery of any weapon from appellants, Manjinder Singh and Talwinder Singh. They were summoned to face trial with the aid of Section

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319 Cr.P.C. and both of them have been convicted and sentenced with the aid of Section 34 IPC, whereas, appeal stands abated qua main accused, Jagdip Singh after his death on 30.10.2014.

11. Learned senior counsel also contended that main injury [No.1] caused in the abdomen of the complainant was attributed to Jagdip Singh [since deceased]. Even the remaining injuries No.2 and 3 were declared to be simple in nature and only injury No.1 was declared as dangerous to life, which was attributed to appellant Jagdip Singh. More so, appellants No.2 and 3 have already undergone about two months of actual sentence and appeal qua appellants No.2 and 3, Manjinder Singh and Talwinder Singh be accepted and the impugned judgment of conviction and order of sentence qua them be set-aside.

12. Learned State counsel contended that appellant, Jagdip Singh has died, but appellant Manjinder Singh alias Mannu had also caused injury with sharp edged weapon on the left arm of complainant-Sandeep Singh and same is evident from the medical record as well. Both the appellants, namely, Manjinder Singh and Talwinder Singh actively associated at the time of commission of offence and but for their active participation in the crime, the main offence could not have been committed by Jagdip Singh even. Learned trial Judge has rightly convicted and sentenced appellants, Manjinder Singh and Talwinder Singh for commission of offence punishable under Section 307 with the aid of Section 34 IPC. The defence version has rightly been negated by the Court below. The appeal is

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absolutely without any merit and the same be dismissed.

13. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that there is no dispute on the factual position that the appeal filed qua Jagdip Singh stands abated on account of his death on 30.10.2014. It is also not in dispute that the main injury No.1, which was declared to be dangerous to life, covered under Section 307 IPC, was attributed to appellant No.1, Jagdip Singh only. The role assigned to appellant Nos.2 and 3, Manjinder Singh and Talwinder Singh is to the extent that both of them had caught hold of complainant-Sandeep Singh and Manjinder Singh had also given one injury with sharp edged weapon. However, the said injury was declared to be simple in nature as per medical opinion.

14. As regard to conspiracy on the part of other two appellants, namely Manjinder Singh and Talwinder Singh, their involvement to commit the offence punishable under Section 307 IPC is not made out. However, they are held guilty for commission of offence punishable under Section 324 read with Section 34 IPC because the nature of injury suggests that the injury on the left arm of the complainant attributed to accused-appellant, Manjinder Singh was with sharp-edged weapon and that could not have been possible but for the active participation of other accused. Accordingly, they are convicted for commission of offence under Section 324 read with Section 34 IPC for causing simple injury with sharp edged weapon to complainant-Sandeep Singh and are sentenced to undergo Rigorous

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Imprisonment for a period of 1 year and fine of Rs.50,000/- each which shall be payable to the complainant and in default of payment of fine they shall further undergo RI for 2 months. Such a view was taken by this Court in **Balwiant Singh Vs. State of Punjab, 2014(1) R.C.R. (Criminal) 73 and Satpal Singh Vs. State of Punjab, 2011(3) R.C.R. (Criminal) 410.**

16. Resultantly, appeal qua appellants No.2 and 3 namely, Manjinder Singh and Talwinder Singh is disposed of in the above terms and they are convicted under Section 324 read with Section 34 IPC and sentenced to undergo Rigorous Imprisonment for 1 year and to pay fine of Rs.50,000/- each, which shall be payable to the complainant and in default of payment of fine to further undergo RI for 2 months.

17. Accused-Appellants, Manjinder Singh and Talwinder Singh were released on bail by this Court during the pendency of the appeal. Their bail/surety bonds are cancelled. They be arrested and sent to jail to undergo the remaining part of sentence. Learned trial Judge is directed to comply with this order forthwith under intimation to this Court.

(SHEKHER DHAWAN)
JUDGE

May 3rd,2017
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Whether speaking/reasoned	:	Yes
Whether Reportable	:	Yes