

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

(1)

**CRA-D-76-DB of 2014
Date of decision:-25.4.2017**

Gobind Singh and others

...Appellants

Versus

State of Punjab

...Respondent

(2)

CRA-D-83-DB of 2014

Jagtar Singh @ Bagga and others

...Appellants

Versus

State of Punjab

...Respondent

(3)

CRA-D-122-DB of 2014

Amrik Singh and others

...Appellants

Versus

State of Punjab

...Respondent

(4)

CRA-D-261-DB of 2014

Sarabjit Kaur and another

...Appellants

Versus

State of Punjab and others

...Respondents

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

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CRA-D-83-DB of 2014;
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Present : Mr.G.S. Punia, Senior Advocate with
Mr.P.S. Punia, Advocate
for the appellants in CRA-D-76-DB of 2014 and for
respondents No.7 to 12 and 14 to 16 in
CRA-D-261-DB of 2014.

Mr.A.P.S. Deol, Senior Advocate with
Mr.Vishal Rattan Lamba, Advocate
for the appellants in CRA-D-83-DB of 2014 and
CRA-D-122-DB of 2014 and
for respondents No.2 to 6, 13 and 17
in CRA-D-261-DB of 2014.

Mr.J.S. Bedi, Senior Advocate with
Mr.H.S. Oberoi, Advocate
for the appellants in CRA-D-261-DB of 2014.

Mr.S.S. Dhaliwal, Additional A.G., Punjab.

H.S. MADAAN, J.

Vide this judgment, we propose to dispose of four appeals
i.e. **CRA-D-76-DB of 2014** filed by accused Gobind Singh and eight
others, **CRA-D-83-DB of 2014** filed by accused Jagtar Singh @ Bagga
and two others, **CRA-D-122-DB of 2014** filed by accused Amrik Singh
and three others and **CRA-D-261-DB of 2014** filed by victims Sarabjit
Kaur and Charan Kaur against the judgment and order dated 23.12.2013
passed by learned Additional Sessions Judge, Patiala.

Vide impugned judgment and order, learned trial Court
convicted sixteen accused, namely, Gobind Singh, Ranjit Singh,
Karamjit Singh @ Kala, Balwinder Singh @ Babbu, Gurnam Singh @
Gama, Jarnail Singh, Harbans Singh, Bachan Singh, Tarlochan Singh,
Jagtar Singh @ Bagga, Jora Singh, Karamjit Kaur, Amrik Singh,
Gurdhian Singh, Harkesh Singh and Gurdeep Singh and sentenced them

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as under:

Name of convict	Offence under Section	Sentence
Amrik Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323 IPC	Rigorous imprisonment for six months.
-do-	323/149 IPC	Rigorous imprisonment for six months.
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for one month.
Jagtar Singh	302 IPC	Rigorous imprisonment for life and to pay a fine of Rs.1 lac and in default thereof, to further undergo rigorous imprisonment for a period of two years.
-do-	307 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for

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		three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months.
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Jora Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months.
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Gurdhian Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.

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-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323 IPC	Rigorous imprisonment for six months.
-do-	323/149 IPC	Rigorous imprisonment for six months
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Harkesh Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323 IPC	Rigorous imprisonment for six months.
-do-	323/149 IPC	Rigorous imprisonment for six months
-do-	148 IPC	Rigorous imprisonment for

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		one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Bachan Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323 IPC	Rigorous imprisonment for six months.
-do-	323/149 IPC	Rigorous imprisonment for six months.
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Gobind Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.

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-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Ranjit Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Jarnail Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.

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-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months.
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Karamjit Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months.
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.

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Harbans Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months.
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Gurdeep Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months.

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-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Tarlochan Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Gurnam Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine

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		of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months.
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Balwinder Singh	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.
Karamjit Kaur	302/149 IPC	Rigorous imprisonment for life and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for a period of one year.
-do-	307/149 IPC	Rigorous imprisonment for

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		five years and to pay a fine of Rs.2,000/- and in default thereof, to further undergo rigorous imprisonment for a period of six months.
-do-	326/149 IPC	Rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for a period of three months.
-do-	323/149 IPC	Rigorous imprisonment for six months.
-do-	148 IPC	Rigorous imprisonment for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of one month.

All the substantive sentences were ordered to run concurrently.

Briefly stated, the prosecution story as it unfolded during the trial is that on 5.6.2008, a wireless message sent from Police Post Rajindra Hospital, Patiala was received at Police Station Bhadson that Gurmail Singh son of Raghbir Singh, Gurcharan Singh son of Amar Singh, Chamkaur Singh and Balkar Singh sons of Gurcharan Singh, residents of Kishangarh were admitted in Rajindra Hospital, Patiala in Emergency Ward No.1 in injured condition and some Investigating Officer be sent for taking necessary action in the matter. As such Inspector Hardip Singh, SHO of Police Station Bhadson (hereinafter referred to as the Investigating Officer/IO) along with other police officials proceeded to Rajindra Hospital, Patiala. He collected MLRs of injured i.e. Balkar Singh, Chamkaur Singh and Gurmail Singh from

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there whereas MLR of victim Gurcharan Singh could not be received as it was informed that he had died. The Investigating Officer accordingly moved an application seeking opinion of attending doctor regarding fitness of injured Gurmail Singh to make statement, since the other surviving injured were being operated upon. The doctor on duty had declared injured Gurmail Singh to be fit to get his statement recorded. Therefore, the Investigating Officer recorded statement of Gurmail Singh in presence of Ex-Sarpanch Nahar Singh.

Inter alia, in the statement complainant Gurmail Singh son of Raghbir Singh of Majbi Sikh community, resident of Kishangarh, Police Station Bhadson, District Patiala, aged about 60 years stated that he is labourer by avocation; that his cousin brother (father's elder brother's son) namely Gurcharan Singh son of Amar Singh had won election of Panch from the village; that house of Gurcharan Singh was situated on *Phirni* (circular road of the village) at some distance from the house of complainant; that house of Jagtar Singh @ Bagga son of Jora Singh, Jat was located opposite to the house of Gurcharan Singh; that Smt. Karamjit Kaur wife of Jagtar Singh had also won the election of Panch; that in all a total number of five panchayat members had been elected from the village, three out of them were supporters of Nahar Singh while two were with Amrik Singh, earlier Sarpanch; that Amrik Singh required one more Panch to become Sarpanch of the village again; that he wanted to get support of Gurcharan Singh by hook or crook but Gurcharan Singh refused to oblige him; that as such Amrik Singh hit upon a plan with Jagtar Singh alias Bagga and by claiming that

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the land on which house of Gurcharan Singh was located belonged to Gram Panchayat, he arranged demarcation of the said house; that at that time Jagtar Singh alias Bagga, Jora Singh, Gurdhian Singh, Harkesh Singh sons of Gurdial Singh, Kaka Singh son of Ram Rang, Gobind Singh son of Attar Singh and his son Ranjit Singh, Jarnail Singh son of Jabra Singh, Avtar Singh son of Jora Singh, Karamjit Singh @ Kala, Dalwara Singh @ Neela sons of Roop Singh, Tarlochan Singh son of Hari Singh and his brother Judge Singh, Harpal Singh son of Baldev Singh, Gurnam Singh @ Ghama son of Pritam Singh and his son Babbu, Harbans Singh son of Gurdial Singh, Mohan Singh son of Hari Narain were there; that Amrik Singh went in front of the house of Gurcharan Singh and raised a *lalkara* (exhortation) challenging Gurcharan Singh and his sons Balkar Singh and Chamkaur Singh to come out since on that day the department people had come for the purpose of demarcation. According to the complainant, he was sitting with them (Gurcharan Singh etc.) and when they went towards the main gate of house of Gurcharan Singh then Jagtar Singh alias Bagga stated that the Sarpanch with their help was to take possession of Panchayat land after demolition of the construction. In the statement to the police the complainant further stated that when they objected to that, then those persons started abusing them and threatened to kill them; that thereafter Jagtar Singh @ Bagga called his wife Karamjit Kaur, Panch asking her to bring his pistol and then he would see them; that then Karamjit Kaur rushed inside the house, brought the pistol and handed it over to Jagtar Singh; that Amrik Singh exhorted Jagtar Singh to open fire stating as to

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what he was waiting for and he should finish them (complainant side) off; that then Jagtar Singh on asking of Gurdhian Singh fired a shot at Gurcharan Singh hitting him in the chest with an intention to kill him and on being exhorted by Harkesh Singh, Jagtar Singh fired a shot hitting Chamkaur Singh in chest, then on exhortation being given by Amrik Singh, Jagtar Singh fired directly at Balkar Singh hitting him in stomach. According to the complainant, when he stepped forward to save the injured, then Jagtar Singh fired at him and the bullet hit on his right thigh whereas Gurdeep Singh along with his companions Malkiat Singh, Amrik Singh, Bachan Singh etc. had injured Jagrup Singh etc.; that the entire incident had happened in presence of the complainant and other eye-witnesses; that all the accused persons were in front portion of the courtyard of the house of Gurcharan Singh and in the street; that the incident had been witnessed by Nahar Singh, Ex-Sarpanch and Kuldeep Singh son of Jaswant Singh etc., who had removed the injured to Rajindra Hospital, Patiala for treatment; that due to hue and cry being raised at the spot and other people gathering there, all the accused fled from the place of incident with their respective weapons and that Gurcharan Singh had succumbed to the injuries suffered by him whereas other injured were getting treatment at Rajindra Hospital, Patiala.

Statement of complainant Gurmail Singh Ex.PA was thumb marked by him. Nahar Singh, Ex-Sarpanch had put his signatures below the statement. Their signatures were attested by Inspector Hardip Singh. Inspector Hardip Singh had put his endorsement Ex.PA/1 below such statement of complainant. Then finding that offences under

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Sections 302/307/452/323/506/148/149 IPC and 25/27 of Arms Act appeared to have been committed, he (IO) sent ruqa to police station through Constable Chamkaur Singh from Rajindra Hospital, Patiala at 6:10 p.m., on the basis of which formal FIR Ex.PA/2 was recorded at Police Station Bhadson by ASI Parkash Chand, who appended his endorsement on the ruqa and sent it back to the Investigating Officer.

The Investigating officer carried out the spot inspection and prepared rough site-plan of the place of incident as Ex.PW19/E on demarcation of Nahar Singh, Ex.Sarpanch etc. The Investigating Officer got clicked necessary photographs from Jora Singh, Photographer. He (IO) lifted five empties of cartridges having make KF 7.65 from the spot and thereafter converted those into a parcel, which was taken into possession vide memo Ex.PW11/A. He (IO) also lifted four lead pieces (of bullets) from the spot and thereafter converted those into a parcel which was taken into possession vide memo Ex.PW11/B. He (IO) also lifted blood stained earth from different places and thereafter converted that into a parcel and taking it into possession. The Investigating Officer recorded the statements of witnesses Nahar Singh, Kuldeep Singh and ASI Ranjit Singh at the spot. In the meantime DSP, Sub Division Nabha, Mr. Arshdeep Singh also reached at the spot. Raids were conducted at the house of Jagtar Singh and Amrik Singh but they were not found at their respective houses. On return to the police station, the Investigating Officer deposited the case property with MHC Mohan Singh.

On the next day i.e. on 6.6.2008, the Investigating Officer

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along with other police officials reached Rajindra Hospital, Patiala in the mortuary, where dead body of Gurcharan Singh was lying. He carried out inquest proceedings, preparing the inquest report Ex.PW6/C. The Investigating Officer deputed ASI Ranjit Singh to get post-mortem examination conducted on the dead body of Gurcharan Singh handing him over police request Ex.PW6/B.

Thereafter, the police party went to village Kishangarh and raided the houses of Jagtar Singh and Amrik Singh but they could not be traced. ASI Ranjit Singh, who had also reached at the spot handed over to the Investigating Officer, the parcel containing belongings of the deceased, which were taken into possession vide memo Ex.PW11/D. ASI Ranjit Singh also delivered the copy of the post-mortem report and other documents to the Investigating Officer. The Investigating Officer along with the police officials went to Civil Hospital, Nabha and after obtaining opinion of the doctor regarding fitness of injured Jora Singh, Gurdeep Singh and Gurdhian Singh of accused party to make statement, he recorded statements of Jora Singh and Gurdhian Singh whereas statement of Gurdeep Singh could not be recorded. As their injuries were stated to have been result of the same occurrence, no separate FIR was registered and parallel investigations were initiated as per their respective versions. On return to the police station, the Investigating Officer made entry in the DDR in that regard and the case property of the main case was deposited with MHC Mohan Singh.

On 7.6.2008, the Investigating Officer along with other police officials went to Rajindra Hospital, Patiala and recorded

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statement of injured Chamkaur Singh, who produced blood stained clothes which he was wearing at the time of occurrence including check shirt having a perforation. The same were converted into a parcel which was taken into police possession. Thereafter, the Investigating Officer recorded statement of Balkar Singh, who produced blood stained clothes which he was wearing at the time of occurrence consisting of underwear, one kurta pyjama having bullet marks. The same were converted into a parcel which was taken into police possession. Then the Investigating Officer took into possession blood stained clothes of Gurmail Singh which he was wearing at the time of occurrence consisting of one kurta pyjama having blood stains and bullet marks, those were converted into a parcel which was taken into possession vide memo Ex.PW11/F. Malkiat Singh injured also produced before Investigating Officer blood stained clothes which were also taken into possession vide memo Ex.PW11/E.

Thereafter, police party went to the spot and conducted investigation qua cross version of the present case. On return to the police station, the Investigating Officer deposited the case property with MHC Mohan Singh.

On 8.6.2008, raids were conducted in order to apprehend the accused but to no avail. Thereafter, the Investigating Officer took into possession 12 photographs along with their negatives from Jora Singh, Photographer vide recovery memo Ex.PW9/A.

On 12.6.2008, when the Investigating Officer along with other police officials was present near Veterinary Hospital of village

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Kishangarh, he received a secret information regarding presence of accused Jagtar Singh and Amrik Singh at bus-stand of village Lachkani and accordingly they were formally arrested in this case. Both the accused were interrogated.

Accused Amrik Singh on being interrogated, suffered a disclosure statement Ex.PW19/J that he had kept concealed a *gandasi* (axe) used by him in the incident at the motor of Baggu in the area of village Kishangarh, regarding which he had exclusive knowledge and could get the same recovered.

Accused Jagtar Singh on his interrogation produced his arms licence which was taken into possession vide recovery memo Ex.PW19/K.

Thereafter, accused Amrik Singh, while in police custody, led the police party to the disclosed place and got the *gandasi* (axe) recovered while it was lying underneath the wooden logs. It was not having any stains of blood. The recovered *gandasi* was taken into possession vide memo Ex.PW19/J2. On return to the police station, both the accused were lodged in police lock-up and the case property was deposited with MHC.

On 13.6.2008 accused Jagtar Singh on being interrogated, suffered a disclosure statement Ex.PW19/L that he had kept concealed his licensed pistol of 32 bore along with three live cartridges used by him in the crime after placing those in a polythene bag in a pit near *safeda* (eucalyptus) tree ahead of the bridge of Ajnauda canal, regarding which he had exclusive knowledge and could get the same recovered.

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Thereafter, accused Jagtar Singh, while in police custody, led the police party to the disclosed place and got the 32 bore pistol along with three live cartridges recovered from the place specified by him in his disclosure statement. The recovered pistol was having number RP 129708 which correctly matched with that of licence and it was of 7.65 mm calibre and the live cartridges were also of the same calibre. The IO prepared separate parcels of the pistol and three live cartridges sealing those with his seal having impression 'HS' and said parcels were taken into possession vide memo Ex.PW19/L1. On return to the police station, the Investigating Officer deposited the case property with MHC of the police station.

On 18.6.2008, a message from Rajindra Hospital through control room was received that Chamkaur Singh injured had since expired. Then the Investigating Officer along with other police officials reached at dead house of Rajindra Hospital, Patiala and carried out inquest proceedings with regard to dead body of Chamkaur Singh preparing the inquest report Ex.PG. He deputed HC Narinder Singh to get the post-mortem examination conducted on the dead body of Chamkaur Singh handing him over police request Ex.PF.

Then the police party went to the spot. HC Narinder Singh produced before the IO a sealed parcel sealed with the seal 'RKC' of doctor along with sample seal chit impression, which was containing a piece of lead bullet. The same was taken into possession by the Investigating Officer vide recovery memo Ex.PW19/M.

On receipt of secret information regarding presence of

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accused Jora Singh, Gurdhian Singh, Gobind Singh and Bachan Singh at the motor of Gurdhian Singh situated near the canal minor of village Ajnauda, a raid was conducted and all the four accused were formally arrested in this case. At the time of arrest, accused Gurdhian Singh produced a wooden baton of a cot which was taken into possession vide memo Ex.PW19/N3. Bachan Singh accused also produced a wooden stick at the time of his arrest, which was taken into possession vide memo Ex.PW19/N4. The Investigating Officer recorded statements of concerned witnesses and on return to police station, he deposited the case property with the MHC and lodged the accused in police lock-up at Police Station Bhadson.

On 21.6.2008, on receipt of secret information regarding presence of accused Harkesh Singh at T-point, Dhanauri, a raid was conducted and he was arrested in this case. The Investigating Officer recorded statements of concerned witnesses and on return to police station, he lodged accused Harkesh Singh in police lock-up.

On 23.6.2008, on receipt of secret information regarding presence of accused Jarnail Singh near the bridge of Rohti, a raid was conducted and he was arrested. The Investigating Officer recorded statements of concerned witnesses and on return to police station, he lodged accused Jarnail Singh in police lock-up.

On 26.6.2008, the Investigating Officer recorded the statement of Nahar Singh, Ex. Sarpanch along with other respectables and thereafter reached to the conclusion that the cross version set up by the accused was not sustainable. Thereafter, the investigation of this case

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was also conducted by ASI Parkash Chand, ASI Ranjit Singh and SI Guljar Singh, who also effected the arrest of the remaining accused against whom evidence came during the course of investigation. However, accused Karamjit Kaur, Avtar Singh, Mohan Singh, Darbara Singh, Surjit Singh and Harpal Singh were found innocent.

On 14.8.2008, the Investigating Officer took into possession the medical record of Chamkaur Singh and Balkar Singh. He also moved an application to the concerned doctor of Rajindra Hospital, Patiala for declaring nature of injuries on the person of Chamkaur Singh, who vide his opinion Ex.PC/4 declared the injury No.1 to be dangerous in nature and injury No.2 as simple. The Investigating Officer also moved an application Ex.PW19/R for ascertaining the issuance of licence in the name of Jagtar Singh accused. The concerned office of District Magistrate, Patiala endorsed the issuance of licence in the name of Jagtar Singh accused and also verified the entry of said pistol in the name of Jagtar Singh vide endorsement Ex.PW19/R1.

On 18.8.2008, on the application of Investigating Officer, the concerned doctor vide endorsement Ex.PW7/C declared injury No.2 on the person of Malkiat Singh to be grievous in nature and rest simple in nature.

During the course of investigation, the Investigating Officer recorded statements of witnesses and after completion of investigation and other formalities, challan against accused Amrik Singh, Jagtar Singh @ Bagga, Jora Singh, Gurdhian Singh, Harkesh Singh, Bachan Singh, Gobind Singh, Ranjit Singh, Jarnail Singh, Karamjit Singh @ Kala,

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Harbans Singh, Gurdeep Singh, Tarlochan Singh, Gurnam Singh @ Gama and Balwinder Singh @ Babbu was prepared and filed in the Court of Sub-Divisional Judicial Magistrate, Nabha.

On presentation of challan in the Court of Sub-Divisional Judicial Magistrate, Nabha, copies of documents relied upon in the challan were supplied to all the abovementioned fifteen accused free of costs as provided under Section 207 Cr.P.C. Then finding that offences under Sections 302 and 307 IPC are exclusively triable by the Court of Sessions, learned Sub-Divisional Judicial Magistrate, Nabha vide her order dated 30.8.2008 committed the case to the Court of learned Sessions Judge, Patiala from where it was entrusted to the Court of learned Additional Sessions Judge, Patiala.

When the case was received in the Court of learned Additional Sessions Judge, Patiala, observing that charge for the offences under Sections 302, 307, 326, 323, 148 and 149 IPC was disclosed against the accused, they were charge-sheeted accordingly, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

During the course of prosecution evidence, the prosecution examined Gurmail Singh as PW1 and thereafter the prosecution moved an application under Section 319 Cr.P.C. which was accepted vide order dated 3.7.2009 and Karamjit Kaur, Darbara Singh, Mohan Singh, Judge Singh, Avtar Singh and Harpal Singh were summoned as additional accused. However, that order was challenged in the Hon'ble High Court by way of filing revision petition which was allowed partly because the

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summoning order relating to Darbara Singh, Mohan Singh, Judge Singh, Avtar Singh and Harpal Singh was set aside whereas it was not so done as regards Karamjit Kaur. Accordingly, Karamjit Kaur put in appearance in the trial Court and then fresh charge was framed against all the accused for the offences under Sections 302, 307, 326, 323, 148 and 149 IPC, to which, they pleaded not guilty and claimed trial.

During the course of its evidence, the prosecution examined as many as twenty witnesses as per details below:

PW1 Gurmail Singh, PW2 Balkar Singh and PW3 Kuldeep Singh provided the eye-witness account of the incident.

PW4 Dr.Rakesh Kumar Chopra, Medical Officer, who on 5.6.2008 while working as Medical Officer at Rajindra Hospital, Patiala had conducted the medico-legal examination of Balkar Singh son of Gurcharan Singh, 30 years male, resident of village Kishangarh deposed that he had observed the following injury on his body:

1. Lacerated wound 0.8 x 0.5 cm margin inverted, blackening around the wound was present 4 cm right side of umbilicus. Pain tender abdomen. Advised x-ray and surgical observation.

He gave the probable duration of injury as within six hours and weapon used as firearm. He proved copy of MLR as Ex.PB and pictorial diagram showing seats of injury as Ex.PB/2 and opined that such injury was dangerous in nature/dangerous to life. He proved his opinion in that regard as Ex.PB/1.

He stated that on the same day, he had also medico-legally

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examined Chamkaur Singh son of Gurcharan Singh, 35 years male, resident of village Kishangarh and had observed the following injuries on his person:

1. 0.8 x 0.8 cm circular wound with inverted margins with blackening present, was present on right lower chest, 7 cm from midline and 10 cm below right nipple. Advised x-ray and surgical observation.
2. Complaint of numbness left leg, advised ortho opinion.

He gave the probable duration of injuries as within six hours and weapon used as firearm. He proved copy of MLR as Ex.PC and pictorial diagram showing seats of injury as Ex.PC/1. He gave his opinion that injury No.1 on the person of Chamkaur Singh was dangerous in nature whereas injury No.2 was simple in nature. He proved his report in that regard as Ex.PC/1.

Going further, the witness stated that on that very day, he had also medico-legally examined Gurmail Singh son of Raghbir Singh, 60 years male, resident of Kishangarh and found following injury on his person:

1. Lacerated wound 0.8 x 0.5 cm, inverted margins with blackening present, was present on the middle side of right thigh in its upper half. 12 cm from Symphysis pubis. Advised x-ray and Ortho observation.

Injury was kept under observation and the probable duration of injury was within six hours and weapon used was firearm. He proved

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copy of MLR as Ex.PD, pictorial diagram showing the seats of injury as Ex.PD/1 and his report Ex.PD/3 vide which he had declared injury No.1 on the person of Gurmail Singh as simple in nature.

He further stated that on 18.6.2008, he had conducted post-mortem examination on the dead body of Chamkaur Singh son of Gurcharan Singh, 35 years male, resident of village Kishangarh, Nabha, District Patiala vide post mortem No.RKC/08/72 dated 18.6.2008. The body was brought by HC Narinder Singh, NO.928, P.S. Bhadson and was identified by Mohinder Singh son of Bawa Singh and Hari Singh son of Bawa Singh. On examination, the dead body was of a moderately built male. Eye and mouth were partially open. Rigor mortis was present all over the body. Post-mortem staining was present on back except pressure areas and fixed, bandage with colostomy bag was present, interior aspect of abdomen with bag on right side, on removing the bandage stitched wound 15 cm was present on midline with two stitches intact and rest of the stitches were removed and there was a gap of 5 cm in the centre of wound, loop of intestine was lying outside the ileostomy hole on the right side of abdomen. Drain was present, 3 cm above ileostomy hole and injury No.1 stitched wound with one stitch was present on the right hypocondrium 0.8 cm in length, 7 cm from midline and 10 cm below right nipple inverted margin. On dissection on opening the abdominal cavity retroperitoneal heamotoma present anteriorly, adhesion were present in the abdominal cavity also retroperitoneal heamotoma and foul smelling fluid were present in right lower abdomen and pelvis. Blood stained foul smelling fluid was

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present in peritoneal cavity, stitched wound was present on anterior and posterior wall of stomach, sealed laceration of the inferior edge of liver; on dissecting the track of bullet removed from the soft tissue posterior to sacrum S1 vertebra towards its left side. It was sealed in a small plastic jar with one seal. Iliostomy was done and contained out side the right side of abdomen in ilioostomy bag, slight foul smelling fluid was present in right plural cavity.

This witness stated that injury No.1 was ante-mortem in nature and was result of firearm. In his opinion, the cause of death in this case was septicemic shock as a result of injury No.1, which was sufficient to cause death in ordinary course of nature. According to him, the probable time between injury and death was within about 12 to 14 days and between death and post-mortem examination was within 24 hours. He proved copy of post mortem report as Ex.PE, police request for conducting post-mortem examination as Ex.PF, his endorsement Ex.PF/1 and inquest report as Ex.PG.

PW5 Dr.Ajay Kumar, Junior Resident, Rajindra Hospital, Patiala stated that on 5.6.2008 on police application, he had declared injured Malkiat Singh fit to make statement vide his endorsement Ex.PW5/A; that Malkiat Singh was admitted in their hospital on that very day and discharged on 9.6.2008; that he was given stitches on right forearm. He proved photocopy of bed-head ticket as Ex.PW5/B. Deposing further, this witness stated that on 5.6.2008 patient Gurmail Singh son of Raghbir Singh was admitted in the hospital and discharged on 9.6.2008 and dressing of the patient was done. He proved copy of the

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bed-head ticket as Ex.PW5/C.

PW6 Dr.S.S. Oberoi, Associate Professor, Department of Forensic Medicines, Rajindra Hospital, Patiala deposed that on 6.6.2008 at 12:20 p.m., he conducted the post mortem examination on the dead-body of Gurcharan Singh son of Amar Singh, aged 60 years, resident of village Kishangarh, Police Station Bhadson, District Patiala, which was brought by ASI Ranjit Singh of Police Station Bhadson and identified by Sukhdev Singh and Karam Singh. He had found the following injuries on the body:

1. Wound of entrance caused by firearm measuring 0.5 x 0.5 cm with blackening, tattooing and abrasion collar present in the upper most part of left side of chest 6 cm above and lateral to the supra sternal notch 10 cm below and medial to the tip of shoulder.
2. Wound of exit caused by firearm measuring 1 cm x 1 cm with ragged and everted margins present on the left side of back of chest 6 cm to the left of mid line and 11 cm below the nape of neck. On exploration, injury Nos.1 and 2 were communicating lacerating the intervening left lung. The left pleural cavity was full of liquid blood.
3. Wound of entrance caused by firearm measuring 0.5 cm x 0.5 cm with blackening, tattooing and abrasion collar present in the upper part of left thigh on its antero lateral aspect, 8 cm vertically downward from

the left anterior-superior iliac spine.

4. Wound of exit caused by firearm measuring 1 x 1 cm with ragged and everted margins present on the medial aspect of lower part of left buttock.

All the abdominal organs were pale. In his opinion, the cause of death was haemorrhagic shock due to firearm injuries described which were ante-mortem and sufficient to cause death in ordinary course of nature; that the time which elapsed between the injuries and death was about one hour and between death and post-mortem was about 24 hours. He proved carbon copy of post-mortem report as Ex.PW6/A and police request for conducting post-mortem examination as Ex.PW6/B.

PW7 Dr. Gian Singh, Retd. Medical Officer deposed that on 5.6.2008 at 6:30 p.m., he was working as EMO in Emergency Ward, Rajindra Hospital, Patiala; that on that day, he medico-legally examined Malkiat Singh son of Pakhar Singh, 50 years male, resident of village Kishangarh Gurthaly, Police Station Bhadson. He found following injuries on his person:

1. 3.5 x 1 cm incised wound on posterial aspect of right forearm 7 cm from the right elbow joint. Fresh bleeding. Advised x-ray.
2. 2.5 x 0.4 cm incised wound on dorsal aspect of right index finger of right hand in its phalanx. Fresh bleeding. Advised x-ray.
3. 3.5 x 0.5 cm incised wound on dorsal aspect of right

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middle finger in its middle phalanx. Fresh bleeding.

Advised x-ray.

Injuries No.1 to 3 were subject to x-ray. The probable duration of injuries was within 12 hours. Weapon used for injuries No.1 to 3 were sharp in nature. He proved carbon copy of MLR as Ex.PW7/A, pictorial diagram showing the seats of injuries as Ex.PW7/B and his report regarding nature of injury No.2 as Ex.PW7/C.

On the same day, he had also medico-legally examined Jagrup Singh son of Gurdev Singh, 50 years male, resident of village Kishangarh, Police Station Bhadson. He found following injuries on his person:

1. 3 x 2 cm red abrasion on left side of nose. Fresh bleeding. Advised x-ray.
2. Complaint of pain on left parietal area of the scalp.
3. 6 x 4 cm swelling on posterior aspect of left elbow joint. Advised x-ray.

Injuries No.1 and 3 subject to x-ray. Injury No.2 was simple in nature. The probable duration of injuries was within six hours. He proved carbon copy of MLR as Ex.PW7/D, pictorial diagram showing the seats of injuries as Ex.PW7/E and his report regarding nature of injuries as Ex.PW7/F.

PW8 Bhupinder Singh Sidhu, Approved Draughtsman, Sadar Bazar, Nabha, who on 21.6.2008 had prepared the scaled map Ex.PW8/A of the place of incident on the demarcation of Nahar Singh by visiting the spot deposed in that regard.

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PW9 Jora Singh, Photographer, who had been summoned to spot on 5.6.2008 and had taken 12 photographs Ex.PW9/1 to 12 deposed in that regard stating that he had handed over the same to the police, which were taken into possession vide memo Ex.PW9/A.

PW10 Dr.Shallu Jindal deposed that on 5.6.2008, she was working as Junior Resident at Rajindra Hospital, Patiala and on that day on application of Investigating Officer, she had declared injured/patient Jagrup Singh fit to make statement vide endorsement Ex.PW10/A.

PW11 ASI Ranjit Singh, who on 5.6.2008 while posted at Police Station Bhadson was associated with the investigation of the case being carried out by Inspector Hardip Singh deposed as to what had transpired in his presence on that day, in addition to stating that on 6.6.2008 as directed by the Investigating Officer, he had got post-mortem conducted on the dead body of Gurcharan Singh from Rajindra Hospital, Patiala. He further deposed as regards what had taken place in his presence on 7.6.2008 and 8.6.2008 with respect to investigation of the case besides stating that on 18.7.2008, he had arrested accused Karamjit Singh, Tarlochan Singh and Balwinder Singh in this case.

PW12 Dr.Vivek Kumar, Medical Officer, CHC Amargarh, District Sangrur deposed that on 5.6.2008, he was working as Junior Resident Surgery-II at Rajindra Hospital, Patiala; that on that day, patient Chamkaur Singh son of Gurcharan Singh was admitted in the hospital vide CR No.13607 with alleged history of medico legal assault and got gun shot injuries; that the treatment was given to the patient and exploratory laparotomy was done; that the patient died on 18.6.2008 in

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the hospital. He proved bed head ticket as Ex.PW12/A, death form as Ex.PW12/B and operation notes as Ex.PW12/C.

Going further, this witness stated that on the same day patient Balkar Singh son of Gurcharan Singh was admitted in the hospital vide CR No.13605 with alleged history of medico legal assault and got gun shot injuries in the abdomen; that the patient was investigated and managed accordingly and exploratory laparotomy was done; that the patient was discharged on 21.6.2008 in satisfactory condition and he was advised follow up in surgery OPD after seven days. The witness proved bed head ticket as Ex.PW12/D, his notes as Ex.PW12/E and operation notes as Ex.PW12/F.

This witness further deposed that on the same day patient Gurcharan Singh son of Amar Singh aged about 55 years was admitted in the hospital vide CR No.13604 with alleged history of medico legal assault and getting gun shot injuries; that the patient was in shock managed accordingly and died at 11:40 A.M. on 5.6.2008 due to cardiopulmonary arrest; that the body was shifted to mortuary and belonging were handed over to the relatives. He proved bed head ticket as Ex.PW12/G and his notes as Ex.PW12/H.

PW13 HC Sadhu Singh, a formal witness tendered in evidence his affidavit as Ex.PW13/A.

PW14 Inspector Guljar Singh deposed that on 24.7.2008, he was posted as SI at Police Station Bhadson; that on that day the investigation of this case was entrusted to him; that while he was present at police station, Mohan Singh produced accused Ranjit Singh before

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him, who was arrested in this case after completing necessary formalities; that he was put in lock-up. The witness stated that the investigating of this case remained with him for one day only.

PW15 ASI Mohan Singh deposed that in June, 2008, he was posted as MHC at Police Station Bhadson. He tendered in evidence his affidavit as Ex.PW15/A praying that the same be read as a part of his statement.

PW16 Rajnish, Junior Assistant, Office of Passport and Licence, District Magistrate, Patiala had brought the original record pertaining to arm licence No.877/DM/P/PS Bhadson/December 2006 issued on 21.12.2006 in the name of Jagtar Singh son of Jora Singh, resident of village Kishangarh, Police Station Bhadson valid up to 20.12.2009. He stated that a pistol of 32 bore having number RP129708 had been entered in the licence. He proved the original licence available on the judicial file as Ex.PW16/A.

PW17 Dr.K.M. Mahindra, Senior Resident, Department of Radio-diagnosis, PGI, Chandigarh deposed that on 19.6.2008 he was posted as Junior Resident in the department of Radio-diagnosis, Rajindra Hospital, Patiala; that on that day he had radiologically examined Balkar Singh son of Gurcharan Singh referred to their department for x-ray examination. The witness stated that he had conducted the x-ray of complete abdomen including the both domes of diaphragm. However, no free air under diaphragm was seen and there was no evidence of bone injury. He proved his report in that regard as Ex.PW17/A and skiagrams as Ex.PW17/A1 to Ex.PW17/A5.

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PW18 Dr.Pushpinder Singh, Junior Resident, Department of Radio-diagnosis, Rajindra Hospital, Patiala stated that in the year 2008, Dr.Satish Bansal was posted in the department of Radio-diagnosis, Rajindra Hospital, Patiala, who conducted the x-rays and prepared report in the department, had left the job from Rajindra Hospital, Patiala. He had brought the original register in which the reports were mentioned by Dr.Satish Bansal of patient Jagrup Singh son of Hardev Singh, resident of village Kishangarh. He proved original report as Ex.PW18/A, x-ray films as Ex.PW18/A1 to Ex.PW18/A2 and copy of register as Ex.PW18/B.

PW19 Inspector Hardip Singh, the Investigating Officer in this case deposed regarding the investigation conducted by him proving various documents.

PW20 SI (Retd.) Parkash Chand, who on 5.6.2008 on receipt of ruqa Ex.PA sent by Inspector Hardip Singh had registered the formal FIR at Police Station Bhadson deposed in that regard. He further stated that on 6.6.2008, 7.6.2008 and 12.6.2008 and various subsequent dates, he was associated with the investigation of this case being carried out by Inspector Hardip Singh. He deposed regarding what had transpired in his presence, adding that on 27.6.2008, he was investigating the case and on receipt of secret information had arrested accused Gurdeep Singh and Gurnam Singh and on 29.7.2008 arrested accused Harbans Singh.

Thereafter, Additional Public Prosecutor tendered in evidence reports of FSL as Ex.PH, Ex.PJ, Ex.PK and Ex.PL and closed

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the evidence of prosecution.

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

Further, accused Amrik Singh took up a plea that he has been wrongly implicated in the present case due to party factionalism in the village; that no occurrence as alleged by the complainant party had taken place in the alleged manner. However, a false and fabricated story has been introduced by the complainant party to falsely implicate him. They had not caused any injury to any person. Amrik Singh remained Sarpanch of his village Kishangarh prior to the present alleged occurrence. He and his co-accused have been falsely implicated by complainant Gurmail Singh and other witnesses being inimical against him. All the witnesses were interested witnesses and they belong to the same party in the village. The reason behind his false implication is that earlier to the present alleged occurrence, Amrik Singh had filed an application for demarcation of the land before the Tehsildar, Nabha. The said application was marked to concerned revenue officials by the Tehsildar, Nabha. In pursuance of the said directions, the revenue officials, which included Patwari Shalinder Kumar and Kanungo Pawan Kumar came at the spot for the demarcation of the land in due course of law. Prior intimation was also conveyed to general public by authority concerned in that regard through Chowkidar Krishan Singh. On that day,

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the revenue officials were present in the house of Jora Singh for demarcation of the land. The complainant party did not allow the revenue officials to conduct the demarcation of the land due to their ill interest. They offered resistance and in furtherance of their conspiracy, the complainant party along with other companions came at the spot while armed with deadly weapons and attacked Jora Singh and others. In fact the real story was that when Jora Singh (accused) was present in his house, Nahar Singh son of Mohinder Singh, who was armed with gandasi and revolver, Gurcharan Singh son of Amar Singh (deceased) armed with iron rod, Chamkaur Singh son of Gurcharan Singh (deceased) armed with soti, Darbara Singh son of Sadhu Singh armed with soti, Gurmail Singh (complainant) armed with baton of cot (bahi), Malkiat Singh @ Sadhu son of Pakhar Singh armed with bahi, Chamkaur Singh armed with soti and Nahar Singh armed with revolver, Kuldeep Singh son of Bant Singh armed with soti, Balkar Singh son of Gurcharan Singh armed with soti, Jagdish Singh son of Charan Singh armed with soti, Avtar Singh @ Tarri son of Maghar Singh armed with soti, Kulwinder Singh @ Kendri son of Jodha Singh armed with soti, all residents of his village, came at the spot along with their respective weapons and forcibly trespassed into the house of Jora Singh. Thereafter, PW Nahar Singh raised a Lalkara that they should be taught a lesson for getting demarcation of the land and thereafter all the aforesaid persons with intention to kill, attacked the house of Jora Singh, where Jora Singh along with Mohan Singh Ex. Panch, Gobind Singh Ex. Panch, Gurdhian Singh son of Gurdial Singh, Gurdeep Singh son of

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Gurdhian Singh, Hari Singh son of Gurdial Singh were present and were taking tea. Nahar Singh gave a gandasi blow with an intention to kill on the person of Gurdeep Singh son of Gurdhian Singh which hit on the back portion of Gurdeep Singh; Gurdhian Singh stood up in order to save himself, then Darbara Singh gave soti blow to Gurdhian Singh with an intention to kill him. Gurdhian Singh raised his hand to save himself, and the blow landed on his right hand. Thereafter, Chamkaur Singh (since deceased) gave a soti blow to Gurdhian Singh with an intention to kill him and the blow landed on his right hand. Chamkaur Singh deceased gave another soti blow on the person of Gurdhian Singh and the soti blow hit below the right bicep of Gurdhian Singh and thereafter, Gurcharan Singh (deceased) gave rod blow with intention to kill Gurdhian Singh which hit on his right shoulder whereas Gurmail Singh gave a bahi blow with intention to kill Gurdeep Singh which hit on the nose of Gurdeep Singh. Then, Malkiat Singh son of Pakhar Singh, Kuldeep Singh son of Bant Singh also gave injuries with their respective weapons on the person of Gurdeep Singh. When Jora Singh came forward to rescue Gurdhian Singh then all the aforesaid persons attacked Jora Singh. Balkar Singh, who was armed with soti, gave soti blow on the back of Jora Singh with intention to kill him, Jagdish Singh, Avtar Singh and Kulwinder Singh also caused injuries to Jora Singh with their respective weapons with the intention to kill him. Thereafter, Jora Singh, Gurdeep Singh and Gurdhian Singh after receiving injuries at the hands of aforesaid accused fell down on the ground and then, Jagroop Singh caused injuries on the person of Jora Singh, Gurdhian Singh and

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Gurdeep Singh with an intention to kill them. Thereafter, after hearing the raula (noises), Jagtar Singh son of Jora Singh came outside from his room and then, on seeing him, Nahar Singh and his son Chamkaur Singh took out respective revolvers and started firing shots, then, the aforesaid persons went out in the street from the house of Jora Singh. In the meanwhile Gurcharan Singh and Chamkaur Singh received shots at the hands of Nahar Singh and his son Chamkaur Singh. Then, on hearing the noise of shots, fired by Nahar Singh and Chamkaur Singh, all the aforesaid persons, who attacked Jora Singh and others ran away towards their houses along with their respective weapons. Jora Singh, Gurdhian Singh and Gurdeep Singh injured were removed to Civil Hospital, Nabha where they were medically examined and were given treatment. Nahar Singh son of Mohinder Singh and Chamkaur Singh son of Nahar Singh were having revolvers with them at that time and they formed an unlawful assembly. Gurcharan Singh son of Chamkaur Singh received gun shot injuries at the hands of Nahar Singh and Chamkaur Singh son of Nahar Singh during that process. Later on, a false case has been foisted upon them by the complainant party in connivance with the police after due consultation and confabulations.

He further pleaded that he is a poor agriculturist and was not even present at the spot at the time of the alleged occurrence. He had not caused any injury to any person and had no concern whatsoever with the alleged incident/occurrence.

Similar plea as taken by accused Amrik Singh had been adopted by accused Jagtar Singh, Jora Singh, Gurdhian Singh, Harkesh

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Singh, Bachan Singh, Gobind Singh, Ranjit Singh, Jarnail Singh, Karamjit Singh, Gurdeep Singh, Tarlochan Singh and Gurnam Singh @ Gama.

Further, accused Harbans Singh took up a plea that he had been falsely implicated in the present case due to party factionalism in the village; that no occurrence had been taken place in the manner as alleged by the complainant party; that a false and fabricated story has been introduced by the complainant to falsely implicate him due to the reason that he appeared as a witness in the FIR No.74 dated 13.1.1994 against Kuldeep Singh Fauji, Chamkaur Singh son of Nahar Singh and Jagrup Singh son of Gurdev Singh and the complainant was having grudge against him.

Further, accused Balwinder Singh took up a plea that he had been falsely implicated in the present case due to party factionalism in the village; that no occurrence had been taken place in the manner as alleged by the complainant party and that a false and fabricated story has been introduced by the complainant to falsely implicate him.

Further, accused Karamjit Kaur took up a plea that she had been falsely implicated in the present case due to party factionalism in the village; that no occurrence has been taken place in the manner as alleged by the complainant party; that a false and fabricated story has been introduced by the complainant to falsely implicate her and her family members in the case; that she had been falsely named in this present case by the complainant party being inimical against her family members as there was party faction in the village; that on the day of

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alleged occurrence, she was not present at the spot or even in the village Kishangarh as she was away to her parental village namely Dayagarh; that she had remained present in village Dayagarh at her parental house since one week prior to the present occurrence, she had gone to her parental house as her sister Paramjit Kaur had suffered hip joint fracture and she had gone to look after her; that even she remained present in her parental village after many days of the alleged occurrence; that during the course of investigation, they had filed application for inquiry before the higher police officials and the inquiry was conducted by DSP Arshdeep Singh and Inspector Hardip Singh, who recorded statements of witnesses and after verifying the facts found her innocent in this case and also came to the conclusion that her name had been falsely introduced by the complainant and that the complainant party after introducing false witnesses and false story, involved her, her husband and her other family members in this false case.

During their defence, accused examined eleven witnesses.

DW1 Pawan Kumar, Kanungo, Tehsil Office, Patiala deposed that in May, 2008, he was posted as Field Kanungo at village Ajnouda; that he had received an application filed by Amrik Singh, Ex.Sarpanch, resident of village Kishangarh, Tehsil Nabha, District Patiala from the office of Tehsildar, Nabha for demarcation of land at village Kishangarh; that on the said application he made a report dated 5.6.2008 copy of which being Ex.D2. He proved copy of information memo sent to both the parties bearing his signatures, which had been sent through Patwari Halqa. He stated that the memo bears report Ex.D3

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of Shalinder Singh, Halqa Patwari. Going further, the witness stated that after passing of the order, they reached at the spot on 5.6.2008 for demarcation of the land and were present in the residential room of Jora Singh for that purpose; that at that time, he was accompanied by Shalinder Singh, Patwari and that the demarcation could not be conducted due to some *raul*a (commotion) outside the room and as such they returned.

DW2 Dr.Sham Singh deposed that on 6.6.2008, he was posted as Medical Officer at Civil Hospital, Nabha; that on that day, he radiologically examined Gurdeep Singh son of Gurdhain Singh, resident of village Kishangarh, Tehsil Nabha qua his skull, nasal bone, foot, cervical spine and chest and found no bony injury. He proved his report as Ex.D14.

On the same day, he had radiologically examined Jora Singh son of Gurdial Singh, resident of village Kishangarh and made following observations:

1. X-ray skull/AP and B/L. No bony injury seen.
2. X-ray Nasal bone B/L Fracture nasal bone present.
3. X-ray left arm A/P and lateral view. No bony injury seen.

He proved his report as Ex.DW16.

On that very day, he had also radiologically examined Gurdhian Singh son of Gurdial Singh, resident of village Kishangarh regarding x-ray of thumb, right arm and right scapula. However, there was no bony injury found on x-ray examination. He proved his report in

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that regard as Ex.DW15.

DW3 SI Ranjit Singh from Police Station Bhadson was examined without oath inasmuch he had only brought the original inquiry report dated 25.7.2008 along with original applications and statements of witnesses recorded during inquiry by Sh.Arshdeep Singh Gill, DSP, Nabha.

DW4 DSP Arshdeep Singh Gill stated that in June, 2008, he was posted as DSP, Sub Division, Nabha; that Police Station Bhadson falls within the jurisdiction of Sub-Division, Nabha; that he was Supervisory officer of Police Station Bhadson; that FIR No.56 dated 5.6.2008 under Section 302 IPC etc. was registered at Police Station Bhadson and on receipt of application dated 9.6.2008 submitted by Karamjit Kaur wife of Jagtar Singh, resident of village Kishangarh, Police Station Bhadson from the office of SSP, Patiala directing him to inquire and report in the matter and on receipt of applications submitted by Gobind Singh, Harbans Singh and Jarnail Singh, he had conducted inquiry with regard to all those applications, recorded statements of various persons i.e. Ex.DW4/1 to Ex.DW4/25 and on the basis of inquiry conducted by him, he had submitted his report Ex.DW4/26 finding Karamjit Kaur, Mohan Singh, Avtar Singh, Surjit Singh, Harpal Singh and Darbara Singh to be innocent. He stated that he had sent his inquiry report to SSP, Patiala who after approving the same sent the same to SHO, P.S. Bhadson for further necessary legal action. The witness stated that he himself had visited the spot during investigation which was being conducted by Inspector Hardip Singh SHO. The said

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SHO had also found those persons to be innocent and his investigation was verified by him.

DW5 Nirmal Singh aged about 50 years, resident of village Kishangarh deposed that on 5.6.2008, he was present at bus stop of their village for going to village Simbru and was waiting for tempo, which passes through their village, then proceeding to village Simbru; that at about 8:00 A.M., he saw Karamjit Kaur wife of Jagtar Singh sitting in the tempo along with some other passengers; that he had also boarded the tempo for going to village Simbru; that when he got down at bus stand Simbru, Karamjit Kaur also got down from the tempo there; that he had asked Karamjit Kaur as to where she was going and she replied that she was going to her parental village Dayagarh near village Ditupur to enquire about the health of her sister Paramjit Kaur; that in his presence a bus came from the side of Patiala and Karamjit Kaur boarded that bus for going to village Ditupur and he went towards his fields. Going further, this witness stated that on return to village, he came to know that there was a fight in the village; that Karamjit Kaur was not present in village Kishangarh at that time and her name has been falsely given as an accused in this case due to party factionalism in the village. He further deposed that he had also made his statement before DSP Nabha on 14.7.2008 and he proved such statement as Ex.DW4/1.

DW6 Darshan Singh son of Gurdev Singh, aged 36 years, resident of village Dayagarh stated that he is permanent resident of the said village; that their father are three brothers, one of them is Sher Singh, who has got two daughters namely Paramjit Kaur and Karamjit

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Kaur; that both of them (Paramjit Kaur and Karamjit Kaur) are married at village Kishangarh i.e. Paramjit Kaur with Kuldeep Singh and Karamjit Kaur with Jagtar Singh and he is known to them. He stated that Paramjit Kaur had come to her parental village 4/5 months prior to 5.6.2008; that on 5.6.2008 at about 9/9:30 A.M., he was present in the house of his uncle Sher Singh, where Karamjit Kaur sister of Paramjit Kaur came to enquire about her health from village Kishangarh; that Paramjit Kaur had got leg fracture due to which Karamjit Kaur had come to that village. This witness further stated that after receiving some message from her in-laws village, he along with Karamjit Kaur left for that village (Kishangarh) on motorcycle at about 5:00 p.m., reaching there at about 6:00 p.m. In the concluding lines of his examination-in-chief, the witness stated that Karamjit Kaur remained in the house of her father Sher Singh at village Dayagarh from 9/9:30 A.M. till 5:00 p.m. and he had made statement in that regard before DSP, Nabha, which he proved as Ex.DW4/4.

DW7 HC Jagat Singh from Complaint Branch, Office of Senior Superintendent of Police, Patiala got his statement recorded without oath proving the inquiry file 3054/P of 21.4.2009.

DW8 Sh.Ashish Kapoor, SP, Chandigarh deposed that on 13.8.2008, he was posted as DSP, Headquarter, Patiala and on receipt of application from DIG, Patiala Range, Patiala regarding false implication of Harkesh son of Gurdial Singh, resident of village Kishangarh Gurthali, the said application was marked to him for inquiry, he conducted the inquiry, recorded statements of various persons reaching

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the conclusion that Harkesh Singh was present at the spot and he had scuffled with Nahar Singh, Sarpanch but during the fight he had neither exhorted nor assaulted the two deceased Gurcharan Singh, Chamkaur Singh and other injured. He proved his report in that regard as Ex.DW8/A stating that it was approved by SSP, Patiala.

DW9 Dr.Taranjit Singh deposed that on 5.6.2008, he was posted as Medical Officer at Civil Hospital, Nabha; that on that day, he sent information regarding arrival of injured Gurdhian Singh son of Gurdial Singh, Gurdeep Singh son of Gurdhian Singh, Jora Singh son of Gurdial Singh to SHO, P.S. Bhadson through Kotwali, Nabha, certified copy of which being Ex.D6. On that day, he medico legally examined Gurdhian Singh son of Gurdial Singh aged 60 years and found following injuries on his person:

1. Contusion 3 cm x 2 ½ cm on the ventral surface of the right thumb on its distal phalangeal part. Tenderness present on examination. Movements at the distal inter phalangeal joint were painful and restricted advise x-ray.
2. A contusion 12 cm x 2 ½ cm on the right arm on its posterior surface. Running obliquely about 7 cm above the right elbow joint. Tenderness present on examination. Advised x-ray.
3. Complaint of pain in the right upper scapular region, tenderness present on examination and movements at the right shoulder joint were painful. Advised x-ray.

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Nature of injuries No.1 to 3 kept for x-ray examination and all the injuries were caused with blunt weapon, duration of the injuries was within six hours.

On the same day, he had also medically examined Gurdeep Singh son of Gurdhian Singh, aged 38 years, resident of village Kishangarh, Tehsil Nabha and found following injuries on his person:

1. An incised wound 5 cm x .3 cm into bone deep on the right upper scalp running in the anterior-posterior, direction, spindle shape about 11 cm above the right ear pinna, about 18.5 cm above the lateral end of the right eyebrow. Fresh bleeding was present on examination. Advised x-ray and kept under observation.
2. Abrasion .2 cm diameter over nose, 3.5 cm above the tip of the nose. Fresh bleeding present from the right nostril. Advised x-ray and ENT Surgeon opinion.
3. Abrasion 1.3 cm diameter over the tip of the left great toe just below the medial half of the nail. Fresh bleeding present on examination. Advised x-ray.
4. Complaint of pain in neck in its middle in its upper half tenderness present on examination. Advised x-ray.

Nature of injury No.1 kept for x-ray and under observation.

Injury No.2 kept for x-ray, ENT Surgeon opinion.

Injuries No.3 and 4 kept for x-rays only.

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On that very day, he had medically examined Jora Singh son of Gurdial Singh, aged 62 years of age, resident of village Kishangarh, Tehsil Nabha and found following injuries on his person:

1. A lacerated wound 1.6 cm x .1 cm running vertically on the forehead in its middle extending upto the upper 1/3 of the nasal bridge. Fresh bleeding present. Advised x-ray and ENT Surgeon opinion.
2. Lacerated wound 0.5 cm x 0.1 cm on the nasal bridge about 1 cm below the injury No.1. Advised x-ray and surgeon opinion.
3. Lacerated wound 1 cm x .1 cm running horizontally just lateral on the little end of the left eyebrow. Fresh bleeding present. Advised x-ray.
4. Abrasion 1.6 cm x .6 cm on the lateral aspect of the left arm about 15 cm above the olecranon process of ulna. Fresh bleeding present and tenderness present around it. Advised x-ray.
5. Lacerated wound 4 cm x .3 cm into bone deep on the left side of the scalp. Running anterior posteriorly about 12.5 cm above the left ear pinna and about 16.5 cm above the left eyebrow. Fresh bleeding present on examination. Advised x-ray.

All the injuries were caused with blunt weapon. Duration of the injuries was within six hours.

Nature of Injuries:

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Injury No.1 kept for x-ray and ENT Surgeon opinion.

Injury No.2 kept for x-ray and ENT Surgeon opinion.

Injuries No.3 to 5 kept for x-ray.

After receiving the x-ray report, he declared the injury No.2 grievous in nature. He proved MLRs of injured Gurdhian Singh, Gurdeep Singh and Jora Singh as Ex.DW9/A to Ex.DW9/C and their pictorial diagrams as Ex.DW9/A1 to Ex.DW9/C1.

DW10 Bant Singh, aged 43 years, Electrician, resident of village Harayana Kalan, Tehsil Nabha deposed that earlier he was posted as helper electrician at Rakhra Sugar Mill; that on 8.6.2008 at 8:45 A.M., he had reached gate of the factory where he met Harkesh Singh, Security Supervisor, who informed him regarding the fault of electricity in the quarters stating that heaters and fridges were also out of order; that he accompanied Harkesh Singh to his quarter and saw Jaswinder Singh clerk at some distance from the gate, who was coming on a scooter; that they met him for a while and went towards the quarter of Harkesh Singh and set the electricity, fridge and heater in order; that he remained with Harkesh Singh at the quarter till about 10:00 A.M.; that his statement was recorded during inquiry conducted by DSP Ashish Kapoor. He proved his statement in that regard as Ex.DW10/A.

DW11 Jaswinder Singh, Ex-Employee of Rakhra Sugar Mill, Rakhra deposed on the lines of testimony of DW10 Bant Singh.

With that the defence evidence got concluded.

After hearing the arguments and going through the record, learned trial Court convicted and sentenced the accused as mentioned

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above which left them aggrieved and they have filed the first three appeals i.e. **CRA-D-76-DB of 2014**, **CRA-D-83-DB of 2014** and **CRA-D-122-DB of 2014** praying that the same be accepted, the impugned judgment of their conviction and sentence be set aside and they be acquitted of the charge framed against them. At the same time victims Sarabjit Kaur and Charan Kaur filed the fourth appeal i.e. **CRA-D-261-DB of 2014** praying therein that the fine imposed upon the accused be enhanced and the same be paid to them as compensation.

We have heard learned counsel for the appellants-accused-convicts and learned Additional Advocate General for the State of Punjab besides going through the record and we are of the considered view that there are certain infirmities in the impugned judgment which are required to be rectified.

The trial Court has convicted all the accused for offences under Sections 148 and 149 IPC. However, we feel that such offences are not established against the accused as it transpires from the record that Amrik Singh, Ex-Sarpanch of the village had taken recourse to law by moving application to the Tehsildar for the purpose of demarcation of the land so as to find out whether some portion thereof was under encroachment of Gurcharan Singh etc. and on that application, the Tehsildar had directed the Kanungo to go to the spot and carry out the demarcation and as such revenue officials had in fact gone to the spot on the fateful day though they could not complete the task due to the unfortunate incident. Admittedly, there has been factionalism in the village and persons belonging to both the factions as well as other

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villagers not owing allegiance to any of the factions were there. There is nothing on record to show that the accused were carrying arms or that they had come prepared for the fight. Rather in the FIR itself there are no allegations of any of the accused carrying weapons. As a matter of fact none of the accused or their party men were carrying any weapons. Rather as per the allegations when the things heated up Jagtar Singh had asked his wife Karamjit Kaur to bring his licensed pistol and she accordingly did so from inside home though such assertion does not seem to be convincing as Jagtar Singh @ Bagga was in his own house and usually menfolk only keep and take care of weapons especially firearms and womenfolk normally keep away from the same. Jagtar Singh @ Bagga would have gone inside and bring his licensed weapon himself rather than getting it through his wife. Nevertheless it stands established that Jagtar Singh was not carrying pistol with him initially and it was brought later on. Therefore, it cannot be said that accused had formed any unlawful assembly or that they were armed with deadly weapons or that they had common object of committing murder by causing death of Gurcharan Singh and Chamkaur Singh, besides causing firearm injuries to Balkar Singh and Gurmail Singh or causing grievous hurt to Malkiat Singh as well as simple hurt to Jagrup Singh, Malkiat Singh and Harkesh Singh. As a matter of fact, the incident does not come out to be a premeditated and pre-planned event and it seems to have happened suddenly in a heat of moment. It does not come out that the accused had prior meeting of mind in the matter. In that way every individual assailant is responsible for his own act and there cannot be

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any vicarious liability on the part of other persons there so as to make them liable for offences under Sections 148 and 149 IPC.

Admittedly, in the instant case as it stands established on the file from the eye-witness account, it was Jagtar Singh @ Bagga accused, who had fired from his licensed pistol, hitting Gurcharan Singh and Chamkaur Singh causing them injuries on their vital parts. Gurcharan Singh had died at the spot whereas Chamkaur Singh had succumbed to the injuries later on. Balkar Singh and Gurmail Singh had also suffered firearm injuries at the hands of Jagtar Singh. Thus no doubt is left in the mind that Jagtar Singh had committed murder of Gurcharan Singh and Chamkaur Singh and caused firearm injuries to Balkar Singh and Gurmail Singh with such intention and under such circumstances that if, by that act he had caused the death of said Balkar Singh and Gurmail Singh, he would have been guilty of murder. Therefore, Jagtar Singh alone had committed offences under Sections 302 and 307 IPC whereas remaining accused – convicts cannot be held guilty for such offences invoking provisions of Section 149 IPC, which was wrongly done by the trial Court. As such, conviction and sentence of accused Amrik Singh, Jora Singh, Gurdhian Singh, Harkesh Singh, Bachan Singh, Gobind Singh, Ranjit Singh, Jarnail Singh, Karamjit Singh @ Kala, Harbans Singh, Gurdeep Singh, Tarlochan Singh, Gurnam Singh, Balwinder Singh and Karamjit Kaur for offences under Sections 302/149 IPC and 307/149 IPC is liable to be set aside.

Similarly as regards Amrik Singh accused – convict, who is attributed grievous hurt caused to Malkiat Singh by means of *gandasi*

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and simple hurt to Jagrup Singh, Amrik Singh alone is guilty for offences under Sections 326 and 323 on that count. The *gandasi* used by him in the incident was got recovered by him during investigation of the case and it was taken into possession. Whereas other accused are certainly not liable along with Amrik Singh under Sections 326/323 read with Section 149 IPC and their conviction and sentence for such offences deserves to be set aside.

As far as conviction of accused Gurdhian Singh, Harkesh Singh and Bachan Singh is concerned, who are alleged to have caused grievous hurt to Malkiat Singh by first two and Jagrup Singh by the latter, during the investigation, no weapon was recovered from them with which they could be connected with the incident. As already observed all of sudden a commotion had taken place and it was free for all. In that melee Malkiat Singh and Jagrup Singh might have received some simple injuries and charge for the offence under Section 323 IPC against Gurdhian Singh, Harkesh Singh and Bachan Singh is not proved conclusively and affirmatively. Therefore, their conviction for such offences is liable to be set aside so is conviction of remaining accused under Section 323/149 IPC.

Resultantly, the impugned judgment of conviction and sentence is modified inasmuch as conviction and sentence of accused Jagtar Singh alias Bagga is maintained for offences under Section 302 and 307 IPC and that of Amrik Singh for offences under Sections 326 and 323 IPC while their conviction and sentence for remaining offences is set aside whereas other accused - convicts namely Jora Singh,

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Gurdhian Singh, Harkesh Singh, Bachan Singh, Gobind Singh, Ranjit Singh, Jarnail Singh, Karamjit Singh @ Kala, Harbans Singh, Gurdeep Singh, Tarlochan Singh, Gurnam Singh, Balwinder Singh and Karamjit Kaur are acquitted of the charge framed against them. They are on bail. Bonds and sureties furnished by them are discharged.

Amrik Singh appellant – accused is stated to be on bail granted to him by this Court while suspending his sentence. His bail is cancelled. Chief Judicial Magistrate, Patiala is directed to issue arrest warrant to get him arrested so as to make him undergo the remaining sentence.

	(T.P.S. MANN)	(H.S.MADAAN)
	JUDGE	JUDGE
25.4.2017		
Brij		

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