

In the High Court of Punjab and Haryana at Chandigarh.

Criminal Appeal-D No. 708-SB of 2010

Date of Decision:- November 27, 2017

Surjit Singh and others

.....Appellants

Versus

State of Punjab

.....Respondent

CORAM: Hon'ble Mr. Justice Rajesh Bindal
Hon'ble Mr. Justice Gurminder Singh Gill

Present : Mr. Nakul Sharma, Advocate for the appellants.

Mr. D.S.Brar, Advocate for the complainant.

Mr. H.S.Grewal, Additional Advocate General, Punjab.

Gurminder Singh Gill, J.

1. Surjit Singh, Jagdev Singh, Sukhwant Singh, Hardev Singh, Swaran Singh, Binder Singh, Pritam Singh and Jagir Singh have filed the present appeal challenging judgment dated 19.2.2010 passed by learned Additional Sessions Judge, Ferozepur whereby they have been convicted for offences punishable under Section 323, 324, 325 and 326 read with Section 149 of IPC and have been sentenced as under :-

Name of convicts	Convicted u/s	Sentence Imposed	In default of payment of fine
Surjit Singh	(i) 326/149 IPC	For 3 years and fine of ₹ 2,000/-.	Further R.I. for 6 months.
Sukhwant Singh	(ii) 325/149 IPC	For 2 years and fine of ₹ 1000/-.	Further R.I. for 4 months.
Swaran Singh	(iii) 324/149 IPC	For 1 year and ₹500/-.	Further R.I. for 1 month.
Binder Singh	(iv) 148 IPC	For 1 year and ₹500/-.	Further R.I. for 1 month.
	(v) 323 IPC	For 6 months	-----
Jagdev Singh	(i) 326/149 IPC	For 3 years and fine of ₹ 2,000/-.	Further R.I. for 6 months.
	(ii) 325/149 IPC	For 2 years and fine of ₹ 1000/-.	Further R.I. for 4 months.
	(iii) 324 IPC	For 1 year and ₹500/-.	Further R.I. for 1 month.
	(iv) 148 IPC	For 1 year and ₹500/-.	Further R.I. for 1 month.
	(v) 323 IPC	For 6 months	-----
Hardev Singh	(i) 326 IPC	For 3 years and fine of ₹ 2,000/-.	Further R.I. for 6 months.
	(ii) 325 IPC	For 2 years and fine of ₹ 1000/-.	Further R.I. for 4 months.
	(iii) 324/149 IPC	For 1 year and ₹500/-.	Further R.I. for 1 month.
	(iv) 148 IPC	For 1 year and ₹500/-.	Further R.I. for 1 month.
	(v) 323/149 IPC	For 6 months	-----

Pritam Singh Jagir Singh	(i) 326/149 IPC	For 3 years and fine of ₹ 2,000/-.	Further R.I. for 6 months.
	(ii) 325/149 IPC	For 2 years and fine of ₹ 1000/-.	Further R.I. for 4 months.
	(iii) 324/149 IPC	For 1 year and ₹500/-.	Further R.I. for 1 month.
	(iv) 148 IPC	For 1 year and ₹500/-.	Further R.I. for 1 month.
	(v) 323/149 IPC	For 6 months	-----

2. The case pertains to cross-version arising out of FIR No.116 under Sections 148, 302, 324, 323 read with section 149 of IPC, registered at Police Station Ghall Khurd, District Ferozepur on 20.7.2003. The said FIR was infact lodged by the appellant Hardev Singh against the opposite party namely Gurdip Singh and others on account of death of Jaspal Singh, uncle of appellant Hardev Singh. It was alleged in FIR that Gurdip Singh (of opposite party) and Surjit Singh (appellant) are real brothers who had been given properties in different villages by their father. While Gurdip Singh had been given property in Mahna Singh Wala, his brother Surjit Singh has been given property in village Kamaggar. It was alleged in FIR that on 20.7.2003 Surjit Singh and others had come to village Mahna Singh Wala in order to resolve the matter regarding possession of a residential plot measuring 1 kanal where they were attacked by Gurdip Singh, his sons and others.
3. On 21.7.2003 the police recorded statement of Binder Kaur wife of Gurdip Singh wherein she gave her version of the incident which forms basis of the cross-version. The gist of her statement (Ex.P-33), when translated to English reads as follows :-

“I was married to Gurdip Singh son of Bhagwan Singh resident of village Mahna Singh Wala. I have two sons namely Ranjit Singh and Beant Singh and two daughters namely Jaspreet Kaur and Manpreet Kaur. My husband Gurdip Singh has elder brother namely Surjit Singh. My father-in-law Bhagwan Singh had executed a WILL qua land of village Mahna Singh Wala in our favour and in respect of the land situated in village Kamaggar in favour of my brother-in-law Surjit Singh. A Mahindra Tractor was kept as joint. Surjit Singh wanted to take forcible possession of one kanal of land in village Mahna Singh Wala from my husband. My brother-in-law Surjit Singh had shifted their residence to village Kamaggar in the year 1985-86 and had taken Mahindra Tractor there and did not allow us to use the tractor. On 20.7.2003 at about 11-12 noon Surjit Singh armed with *dang*, Hardev Singh son of Surjit Singh armed with *gandasa*, Jagdev Singh son of Surjit Singh armed with iron pipe, Sukhwant Singh son of Surjit Singh armed with handle of Eicher Tractor, Nachattar Singh armed with 12 bore gun, Amrik Singh armed with gun, Jagir Singh, Gurpreet Singh, Pritam Singh, Swaran Singh, Joginder Singh, Binder Singh, Lahora Singh, Gian Singh residents of village Kamaggar armed with sticks, Pal Singh, Jaspal Singh armed with *gandasa* and 7-8 other unidentified persons of different villages came on 3 tractors of make Ford, Eicher and Mahindra along with trolleys in which brick-bats, sand, loose earth, sticks were loaded. Upon reaching the street near our house they started hurling abuses and raised

lalkaras(exhorted) and started demolishing wall abutting the street. The accused entered the house by demolishing the wall. I raised alarm upon which Hardev Singh gave a blow with *gandasa* on my head and I fell down. While I was lying on the ground, Surjit Singh gave a blow with *dang* on my right shoulder. Jagdev Singh gave a blow with iron pipe hitting me on the lower part of my right leg. Sukhwant Singh gave a blow with handle on my right thigh. When my husband Gurdip Singh and my son came forward to rescue me, the accused caused injuries to them. We raised alarm “*mar ditta - mar ditta*” which attracted our neighbours Kalu Singh and Gurjit Singh. During the scuffle the other party also received injuries. Upon alarm being raised all the neighbours came on their rooftops and the accused left the place of occurrence along with their respective weapons on their tractor and trolleys. The motive is that while we were demanding our share in the tractor from my brother-in-law, they wanted to take possession of land from us. They had caused injuries to us after conspiring with each other and had attempted to take possession. A vehicle was arranged and the injured were taken to hospital where I, my husband and my son were treated. I have made my statement which is correct. Action be taken.”

4. Upon recording of the aforesaid cross-version(Ex.P-33), the police conducted investigation into the matter. The MLRs in respect of the injured i.e. Binder Kaur, Gurdip Singh and Ranjit Singh were collected from the hospital. Opinion of Radiologist as regards existence of any fracture was obtained.

Statements of witnesses were recorded under Section 161 Cr.P.C.

5. Upon conclusion of investigation, challan was presented in the Court of Chief Judicial Magistrate, Ferozepur on 1.2.2005 against six accused namely Surjit Singh, Jagdev Singh, Sukhwant Singh, Hardev Singh, Swaran Singh and Amrik Singh. The learned Chief Judicial Magistrate, Ferozepur committed the case to the Court of Sessions. The learned Additional Sessions Judge, Ferozepur, to whom the case was assigned, framed charges against the accused for offences punishable under Section 148, 307, 324, 323/149 of IPC on 26.5.2005 to which the accused pleaded not guilty and claimed trial.
6. After some prosecution evidence had been recorded, the prosecution moved an application under Section 319 Cr.P.C for summoning additional accused which was allowed by the Trial Court vide order dated 17.11.2005 and eight more accused namely Nachhattar Singh, Jagir Singh, Gurpreet Singh, Pritam Singh, Joginder Singh, Binder Singh, Lohara Singh and Gian Singh were summoned to face trial along with the remaining accused. Fresh charges were thereafter framed on 13.3.2006. It may here be added that subsequently the chargesheet was amended on 18.2.2010 so as to add offence under Section 325 as well.
7. The prosecution in order to substantiate its case examined six witnesses. PW-1 Dr. Hardutt Jyoti, Assistant Professor, Government Medical College, Amritsar stated that on 22.7.2003, he was posted as radiologist at Civil Hospital, Ferozepur and had conducted X-ray examination of Binder Kaur, Gurdip Singh and Ranjit Singh. He proved reports as Ex.P-1. Ex.P-2 and Ex.P-3 respectively. PW-1 Dr. Hardutt Jyoti stated that he had observed a fracture of parietal bone of skull of Binder Kaur. He further stated that injury No. 2 on the person of Gurdip Singh showed a cut extending upto cortex of ulna and that

injury no. 4 showed fracture of acromion process of scapula. He further deposed that no fracture was noticed in respect of injuries as regards Ranjit Singh. PW-2 Dr. R.K.Singal deposed that on 20.7.2003, he was working as Medical Officer at C.H.C. Ferozeshah and had medico-legally examined Binder Kaur, Gurdip Singh and Ranjit Singh. He proved the MLRs as Ex.P-13, Ex.P-14 and Ex.P-15 and described the injuries found on the person of aforesaid three injured.

8. PW-3 Sub-Inspector Yadwinder Singh stated that on 15.9.2003, he along with other police officials raided the house of accused and arrested Hardev Singh and Swaran Singh. He further stated that on 19.10.2003, Jagdev Singh and Sukhwant Singh were arrested. He further stated that on 27.11.2003, he formally arrested Harpal Singh, Sukhwant Singh, Lahora Singh, Jagdev Singh, Gurdev Singh, Binder Singh, Nachhattar Singh, Gurpreet Singh, Gian Singh and Kashmir Singh and joined them in investigation under orders of Hon'ble High Court. He further stated regarding recovery of Mahindra Tractor from Jagdev Singh, tractor handle from Sukhwant Singh and iron pipe from Jagdev Singh.
9. PW-4 Binder Kaur – complainant stated in tune with her statement Ex.P-33, the basis of cross-version, which has already been referred to in detail in earlier part of judgment. PW-5 Ranjit Singh - injured witness stated in corroboration to the statement of PW-4 regarding the manner of occurrence. PW-6 Sub-Inspector Pushpinder Singh who is the Investigating Officer in the present case stated as regards the investigation conducted by him in the case.
10. Upon conclusion, entire prosecution evidence was put to accused to enable them to explain the same. The accused while denying the case of prosecution

pleaded false implication. They further took a stand that in fact Gurdip Singh, Tarsem Singh, Ranjit Singh and Binder Kaur had caused injuries to Jagdev Singh and Sukhwant Singh and had murdered Jaspal Singh and that deceased Jaspal Singh had caused injuries to Binder Kaur, Ranjit Singh and Gurdip Singh in self-defence.

11. The accused, in their defence, examined DW-1 Yadwinder Singh, Registration Clerk who produced the record pertaining to registration of first WILL dated 3.7.1995 executed by late Bhagwan Singh in favour of Gurdip Singh. DW-1 Yadwinder Singh further deposed that the said first WILL was subsequently got cancelled and Bhagwan Singh executed second and last WILL on 28.7.1995 in favour of his sons namely Gurdip Singh and Surjit Singh. DW-2 Santokh Singh, Medical Officer stated that on 20.7.2003, he was posted as Medical Officer, Civil Hospital Ferozepur and had medico-legally examined Sukhwant Singh. He proved the MLR as Ex.DW-2/B.
12. DW-3 Dr. Jajbir Singh Sandhu, SMO deposed that on 20.7.2003, he was posted as Medical Officer at Civil Hospital, Ferozepur and on the said day, he had conducted post-mortem examination on the dead body of Jaspal Singh. He proved post-mortem report as Ex.DW-3/B. He further deposed that the cause of death, in his opinion, was due to shock as a result of injury to upper part of spinal cord. He further deposed that on the same day he also medico-legally examined Jagdev Singh. He proved the MLR in respect of Jagdev Singh as DW-3/F. DW-4 Malkiat Singh deposed that the WILL Ex.D-1/A had been executed by Bhagwan Singh in favour of Gurdip Singh and that he had affixed his signature on the said WILL as a witness. He further deposed that contents of the WILL had been read over to Bhagwan Singh.

13. The learned trial Court upon appreciating evidence on record held eight accused namely Surjit Singh, Jagdev Singh, Sukhwant Singh, Hardev Singh, Swaran Singh, Binder Singh, Pritam Singh and Jagir Singh guilty for committing offences under Sections 148, 323, 324, 325 and 326/149 IPC. While three of the accused namely Gurprit Singh, Amrik Singh and Nachhattar Singh had died during the pendency of trial, another three accused namely Lahora Singh, Joginder Singh and Gian Singh were acquitted by the Trial Court vide judgment dated 19.2.2010. The eight accused, who have been convicted, have filed the present appeal.
14. The learned counsel for the appellants while assailing the impugned judgment submitted that they have been falsely implicated in the present case and that the counter-version against the present appellants recorded at the instance of Binder Kaur is nothing but an after-thought and a counter blast to the FIR registered against the complainant party. The learned counsel has submitted that in fact Jaspal Singh who was accompanying the present appellants had been killed by the complainant party and whatever minor injuries had been caused to the complainant party had been caused in self-defence. The learned counsel further submitted that apart from killing Jaspal Singh, the complainant party had caused injuries to Sukhwant Singh and Jagdev Singh as well and in these circumstances the appellants were well within their rights to defend themselves. The learned counsel further submitted that the very fact that cross-version had been recorded belatedly after one day of recording of FIR goes a long way to show that a false version has been cooked up later after consultation. The learned counsel has, thus, prayed for acceptance of appeal and for acquittal of appellants by setting aside the impugned judgment.

15. On the other hand, the learned counsel representing the State, assisted by learned counsel for the complainant, has submitted that the evidence led by the prosecution clearly establishes that it is the present appellants who were the aggressors and had caused injuries in their bid to take possession of the disputed plot and that since possession of the complainant party is clearly evident, therefore, there is no room for any interference in the findings as recorded by the Trial Court. The learned State Counsel further submitted that the Court below has already taken a lenient view and, thus, prayed for dismissal of the appeal.
16. We have considered the rival submissions addressed before this Court and have also perused record of the case.
17. It is a case of cross-version where there are injuries on both sides. The factum of injuries caused by the appellants to the opposite party is virtually admitted by the appellants in their statements recorded under Section 313 Cr.P.C. though a stand has been taken therein that the same had been caused by the appellants in self-defence as the complainant party had attacked them and caused injuries resulting in death of Jaspal Singh and injuries to Sukhwant Singh and Jagdev Singh.
18. Before evaluating the contentions put forth on behalf of the appellants, it would be appropriate to refer to medical evidence led by the prosecution pertaining to injuries found on the person of Binder Kaur, Gurdip Singh and Ranjit Singh. The prosecution examined PW-2 Dr. R.K.Singal who medico legally examined Binder Kaur, Gurdip Singh and Ranjit Singh and found the following injuries :-

Binder Kaur

1. 5 cm x 0.5 cm incised wound, horizontally placed in the middle of head. Fresh bleeding was present. X-Ray was advised.
2. 7 cm x 2 cm reddish contusion involving right shoulder and lateral end of right clavicle.
3. 10 cm x 2 cm reddish contusion obliquely placed on lateral surface of middle of right leg.
4. The patient complained pain the back of right thigh. There was no obvious swelling or injury.

Gurdip Singh

1. 3 cm x 0.5 cm lacerated wound in the middle of head, obliquely placed just above the forehead. Fresh bleeding was present. X-Ray was advised.
2. 5 cm x 1 cm incised wound across the middle of posterior surface of left fore-arm. X-Ray was advised.
3. 4 cm x 1 cm reddish contusion on top of right shoulder.
4. 4 cm x 1 cm reddish contusion in right scapular region. X-Ray was advised.
5. 8 cm x 8 cm reddish contusion involving middle of right arm. X-Ray was advised.
6. 5 cm x 5 cm reddish contusion involving back of lower end of right arm. X-Ray was advised.
7. 3 cm x 1 cm reddish contusion on posterior surface of right fore arm 2 cm below elbow joint.

Ranjit Singh

1. 15 cm x 3 cm reddish contusion on right side of back of chest, just below scapulla.

2. 7 cm x 3 cm reddish contusion on right side just, medial to top of shoulder.
 3. 12 cm x 8 cm reddish contusion on back of right shoulder.
 4. 2 cm x 0.5 cm lacerated wound with fresh bleeding on left side of back of the head. X-ray was advised.
19. The prosecution also examined PW-1 Dr. Hardutt Jyoti PW-1 who had conducted X-ray examination and observed a fracture of parietal bone of skull of Binder Kaur. He further stated that injury No. 2 on the person of Gurdip Singh showed a cut extending upto cortex of ulna and that injury no. 4 showed fracture of acromion process of scapula.
20. From the above referred statements of PW-1 and PW-2, there can hardly be any dispute as regards the fact that Binder Kaur, Gurdip Singh and Ranjit Singh had been caused injuries and that some of the injuries found on their person were grievous hurts. PW-4 complainant Binder Kaur, while in the witness box, attributed the injuries to the appellants by stating as under:-
- (i) Hardev Singh gave a *gandasa* blow on her head.
 - (ii) Surjit Singh gave a *dang* blow on her right shoulder
 - (iii) Sukwant Singh gave a handle blow on her right thigh
 - (iv) Jagdev Singh gave a iron pipe blow on her right leg below knee.
 - (v) When her husband Gurdip Singh and her son Ranjit Singh stepped forward to rescue her, the accused caused injuries to them as well.
21. PW-5 Ranjit Singh son of complainant who had also sustained injuries attributed the injuries to the appellants by stating as under:-

- (i) Hardev Singh gave *gandasa* blow to his mother (Binder Kaur) on her head.
- (ii) Surjit Singh gave *dang* blow to his mother on her right shoulder.
- (iii) Jagdev Singh gave iron pipe blow to his mother hitting on her right leg below knee.
- (iv) Sukwant Singh gave a blow with handle of Eicher tractor hitting his mother on her right thigh.

22. A perusal of the aforesaid attribution of injuries by both the witnesses pertaining to injuries sustained by Binder Kaur- complainant shows that both the aforesaid witnesses stated consistently and the account given by them is absolutely in tune with the version unfolded from the statement Ex.P-33 of Binder Kaur i.e. the cross-version. The medical evidence as referred to above is also absolutely in tune with the ocular version as regards the seat of injuries.

23. PW-5 Ranjit Singh further stated that when the accused caused injuries to his mother Binder Kaur then he and his father Gurdip Singh came forward but they were also caused injuries by the accused. He has given account of the injuries caused to his father by stating as under:-

- (i) Hardev Singh gave *gandasa* blow to my father (Gurdip Singh) on his head from the front side.
- (ii) Jagdev Singh gave a blow with iron pipe to my father hitting him on his right shoulder.
- (iii) Hardev Singh gave a blow with *gandasa* to my father hitting him on his left arm.
- (iv) Jagir Singh gave a blow with *gandasi* on my father on his left arm from his backside.
- (v) Gurpreet Singh gave a blow with *dang* hitting my *father* on his back and Pritam Singh gave a blow with *dang* hitting my father on his left forearm.

24. PW-5 has given account of the injuries sustained by him in the following manner :

- (i) Jagdev Singh gave a blow with iron pipe hitting me on my right shoulder.
- (ii) Surjit Singh gave *dang* blow to me hitting me on my back.
- (iii) Pritam Singh gave a *dang* blow on my head.
- (iv) Jagdev Singh gave a blow with iron pipe on my back.

25. A perusal of the aforesaid statement of PW-5 Ranjit Singh as regards attribution of injuries sustained by him and by his father Gurdip Singh shows that he has broadly stated that while his father had been caused 7 injuries, he had been caused 4 injuries. The set of injuries as attributed by PW-5 Ranjit Singh is fully corroborated from the medical evidence in the shape of MLR where corresponding injuries are found to be existing on the body parts mentioned in the statement of PW-5 Ranjit Singh. Though we do find that while in his statement, Gurdip Singh is stated to have been caused injuries on the left forearm but as per the MLR injury No.5, 6 and 7 have been found on the right forearm. Such inconsistency can well be explained from the fact that a large number of injuries had been caused in quick succession and the witness himself was at the receiving end having sustained injuries at the hands of the accused and in these circumstances, it would have been certainly difficult for him to keep accurate track of all the injuries caused by the accused party. In any case, when attribution of substantial number of injuries sustained by the complainant party stands duly proved from the statements of PW-4 Binder Kaur and PW-5 Ranjit Singh and also from the medical evidence, then even if

there is some inconsistency between the ocular version and the medical evidence regarding the seat of injuries, the same would be of no consequence.

26. It is, thus, held that the injuries found on the person of the injured Binder Kaur, Gurdip Singh and Ranjit Singh had been sustained by them at the hands of the accused.
27. As regards the contention of the appellants that the injuries found on the person of the complainant party had in fact been caused by the accused in self-defence as the complainant party had attacked the accused party and caused injuries resulting in death of Jaspal Singh and serious injuries on the person of accused, the factum of death of Jaspal Singh and receipt of injuries by accused Sukhwant Singh and Jagdev Singh is duly established from medical evidence led by accused. PW-4 Binder Kaur complainant while in the witness box also admitted that during the incident some of the injuries were received by the accused. The factum of injuries on both the parties having been established, the material question before this Court is as to whether the injuries sustained by the complainant party had been caused by the accused party in self-defence.
28. It is the case of complainant PW-4 Binder Kaur that her husband Gurdip Singh has elder brother namely Surjit Singh and that her father-in-law Bhagwan Singh had executed a WILL qua land of village Mahna Singh Wala in favour of Gurdip Singh and in respect of the land situated in village Kamaggar in favour of her brother-in-law Surjit Singh. PW-4 deposed that her brother-in-law Surjit Singh had shifted his residence to village Kamaggar in the year about 1985-86 but wanted to take forcible possession of one kanal of land in village Mahna Singh Wala from her husband. PW-4 and PW-5 have also stated

to this effect while in the witness box.

29. The accused in their defence examined DW-1 Yadwinder Singh Registration Clerk and DW-4 Malkiat Singh, attesting witness to prove WILL dated 28.7.1995 Ex.D-1/A executed by Bhagwan Singh. A perusal of the said WILL Ex.D-1/A shows while Bhagwan Singh bequeathed his property situated at Village Mana Singh Wala in favour of his son Gurdip Singh, the property situated at village Kamaggar was bequeathed in favour of his other son Surjit Singh. The aforesaid WILL, rather, substantiates the case of the prosecution to the effect that the accused had no land in village Man Singh Wala as the entire land in village Man Singh Wala had been given to Gurdip Singh by way of WILL by his father Bhagwan Singh. The occurrence having taken place in village Man Singh Wala at the plot owned by Gurdip Singh shows that it is the accused who were aggressors. The fact that the accused outnumbered the complainant party and caused large number of injuries to the complainant party leaves no room to doubt that it was accused who had initiated the aggression. Further, it is evident from the facts and circumstances that the injuries sustained by the accused party had been caused by the complainant party in self-defence. Some of the injuries caused to the complainant party were found to be grievous hurts on vital parts. The injury found on the head of the complainant was found to be a grievous hurt caused with a sharp edged weapon. As such, the contention raised on behalf of the appellants that they had caused injury in self-defence cannot be accepted and is hereby rejected.
30. Based upon the testimonies of eye-witnesses PW-4 Binder Kaur and PW-5 Ranjit Singh pertaining to attribution of injuries, which find corroborated from the medical evidence, the following accused rendered themselves liable for

individual liability for having committed various offences punishable under IPC:

Hardev Singh :

- (i) under Section 326 IPC for causing injury no. 1
(as in MLR) to Binder Kaur.
- (ii) under Section 326 IPC for causing injury no. 1
(as in MLR) to Gurdip Singh.
- (iii) under Section 323 IPC for causing injury no. 1
(as in MLR) to Gurdip Singh

Surjit Singh :

- (i) under Section 323 IPC for causing injury no. 2
(as in MLR) to Binder Kaur.
- (ii) under Section 323 IPC for causing injury no. 1
(as in MLR) to Ranjit.

Sukhwant Singh :

- (i) under Section 323 IPC for causing injury no. 4
(as in MLR) to Binder Kaur.

Jagdev :

- (i) under Section 323 IPC for causing injury no. 3
(as in MLR) to Binder Kaur
- (ii) under Section 323 IPC for causing injury no. 3
(as in MLR) to Gurdip Singh
- (iii) under Section 323 IPC for causing injury no. 3
(as in MLR) to Ranjit Singh.

Pritam :

- (i) under Section 323 IPC for causing injury no. 4
(as in MLR) to Ranjit Singh.

Gurpreet : (since expired)

- (i) under Section 325 IPC for causing injury no. 4 (as in MLR) to Gurdip Singh.

31. It may here be added that injuries no. 5, 6 and 7 on the person of Gurdip Singh which are on right arm of Gurdip Singh and are simple injuries and also injury no. 2 found on the person of Ranjit Singh which is also a simple injury is not specifically attributed specifically to any of the accused either by PW-4 or PW-5 though apart from the specific attribution they have stated that the accused had caused more injuries. It would certainly not be possible for the injured to keep track of all the injuries received by all the injured at the hands of the accused especially when there are a large number of accused and injuries were caused in a short span of time. In such circumstances, when the accused have been found to have constituted an unlawful assembly then all the accused would be liable for causing such injuries with the aid of Section 149 IPC.
32. In view of our aforesaid discussions, it is evident that the accused party had caused simple and grievous injuries to complainant party with blunt as well as sharp edged weapons while having formed an unlawful assembly with an object to take forcible possession of plot in possession of the complainant party while resorting violence in the said process. Thus, apart from the individual liability of the accused for injuries caused by that particular accused, all the accused would be liable for acts committed by each of the member of said unlawful assembly in terms of provisions of Section 149 of IPC.

33. In view of our discussion made above the conviction of the appellants as regards their individual liability is slightly altered as indicated above. Keeping in view the fact and circumstances of the case and that the occurrence took place about 14 years back, the substantive sentence of imprisonment as imposed by trial Court is reduced to the following extent :

Name of convicts	Convicted u/s	Sentence Imposed	In default of payment of fine
Surjit Singh,	(i) 326/149 IPC	For 1 year and 6 months and fine of ₹ 2,000/-.	Further R.I. for 6 months.
Jagdev Singh,			
Sukhwant Singh,	(ii) 325/149 IPC	For 1 year and fine of ₹ 1000/-.	Further R.I. for 4 months.
Hardev Singh,	(iii) 323/149 IPC	For 6 months	-----
Swaran Singh,			
Binder Singh,	(iv) 148 IPC	For 1 year and fine ₹500/-.	Further R.I. for 1 month.
Pritam Singh and			
Jagir Singh			
Surjit Singh	323 IPC	For 6 months	-----
Jagdev Singh			
Sukhwant Singh			
Pritam Singh			
Hardev Singh	326 IPC	For 1 year and 6 months and fine of ₹ 2,000/-.	Further R.I. for 6 months.
	323 IPC	For 6 months	-----

34. In view of our discussion made above, the appeal is dismissed except for

alteration in individual liability of accused for substantive offences and reduction in sentence as indicated above. All the sentences shall however run concurrently.

(Rajesh Bindal)
Judge

(Gurvinder Singh Gill)
Judge

November 27, 2017
kamal

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No