

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

Criminal Appeal No. S-1808-SB-2004 (O&M)

Date of Decision: 16.02.2018

Swaran Singh and others

...Appellants

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Prateek Pandit, Advocate for appellant No.3.

Ms. Ruchika Sabharwal, AAG, Punjab.

Mr. Nitin Rampal, Advocate for

Mr. Amit Kohar, Advocate for the complainant.

...

Inderjit Singh, J.

CRM-35865-2017

This is an application for listing main appeal to some actual date.

However, since main appeal is also listed today, therefore, this application has become infructuous.

Dismissed being infructuous.

Criminal Appeal No. S-1808-SB-2004

Accused-appellants Swaran Singh, Narain Singh and Rajpal Singh have filed the present appeal impugning the judgment of conviction dated 02.09.2004 and order of sentence dated 08.09.2004 passed by learned Sessions Judge, Kapurthala, whereby Narain Singh was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of ₹1,000/-, in default of payment of fine, to

further undergo rigorous imprisonment for a period of one month under Sections 307 of the Indian Penal Code. He was further sentenced to undergo rigorous imprisonment for a period of three years and to pay of fine of ₹500/-, in default of payment of fine, to further undergo rigorous imprisonment for one month, for the offence punishable under Section 325 read with Section 34 of the Indian Penal Code; Swaran Singh was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of ₹500/-, in default of payment of fine, to further undergo rigorous imprisonment for a period of one month under Section 307 read with Section 34 of the Indian Penal Code. He was further sentenced to undergo rigorous imprisonment for a period of three years and to pay of fine of ₹500/-, in default of payment of fine, to further undergo rigorous imprisonment for one month, for the offence punishable under Section 325 read with Section 34 of the Indian Penal Code and Rajpal Singh was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of ₹500/-, in default of payment of fine to further undergo rigorous imprisonment for a period of one month under Section 307 read with Section 34 of the Indian Penal Code. He was further sentenced to undergo rigorous imprisonment for a period of four years and to pay of fine of ₹1000/-, in default of payment of fine, to further undergo rigorous imprisonment for one month, for the offence punishable under Section 325 of the Indian Penal Code.

It is worthwhile to mention here that during pendency of present appeal, appellants Swaran Singh and Narain Singh had died, therefore, the appeal qua them stands abated.

The brief facts of the prosecution case as noted down in the

judgment passed by learned Sessions Judge, Kapurthala, are as under:-

“3. The facts, in brief, are that on 19.12.2001, after having hired the tractor of Urra Singh, Member Panchayat, Vir Kaur, her husband Jagtar Singh and her son Charan Singh, went to their land, in the area of village Boot, situated near the main Kapurthala-Sultanpur Road. They were cultivating the land, with the tractor. Kulwant Singh son of Urra Singh, was driving that tractor, at that time. At about 3:00 P.M., Charan Singh son of Vir Kaur, complainant and Kulwant Singh son of Urra Singh, after parking the tractor, in the fields, went to the house of Vir Kaur, which is situated near the land, in question. Vir Kaur and her husband Jagtar Singh, were standing near the tractor, in the fields. In the meanwhile, Swaran Singh son of Dalip Singh, Sarpanch, of village Boot, Swaran Singh son of Achhar Singh, Narain Singh, younger brother of Swaran Singh son of Achhar Singh, and Rajpal, residents of village Boot, came towards the fields, from the side of the shops of Narain Singh. Swaran Singh son of Dalip Singh, Sarpanch, raised exhortation, that Jagtar Singh be caught hold and be taught a lesson, for cultivating the land. On the exhortation of Swaran Singh son of Dalip Singh, Swaran Singh son of Achhar Singh, took Jagtar Singh, into his grip. Narain Singh, gave a kirpan blow, which hit the head of Jagtar Singh on the front side. Rajpal gave fist blows, at the face of Jagtar Singh. These blows hit the nose and teeth of Jagtar Singh. Jagtar Singh became unconscious and fell down. Vir Kaur, with a view to save her husband, fell on him and raised alarm of “killed killed”. On hearing the alarm, Charan Singh son of Vir Kaur and Kulwant Singh son of Urra Singh, came from the house of Vir Kaur and ran towards the place of occurrence. On seeing them, the accused decamped from the spot, with the weapon. A number of persons collected there. Thereafter, Charan Singh and Kulwant Singh, arranged a vehicle and Jagtar Singh, husband of the complainant, was taken to P.H.C. Dhilwan. The Doctor medicolegally examined Jagtar Singh and referred him to Civil Hospital, Kapurthala.”

On presentation of challan against accused-appellants, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused-appellants were charge-sheeted under Section 307/325/34 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Vir Kaur eye

Kuljinder Singh, , PW-5 Dr. Jagjit Singh, PW-6 Dr. Gurbachan Singh, PW-7 Dr. Des Raj, PW-8 Dr. Naresh Kumar, PW-9 ASI Rattan Singh and PW-10 Dr. Mukesh Gupta.

At the close of prosecution evidence, the accused-appellants were examined under Section 313 Cr.P.C. They were confronted with the evidence of the prosecution and they denied the correctness of the evidence and pleaded themselves as innocent and their false implication in the present case.

In defence accused examined, DW1 Soma, DW2 Gurdev Singh and DW3 DSP Naresh Kumar.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellants as stated above.

At the time of arguments, learned counsel for appellant No.3- Rajpal Singh did not dispute the findings regarding conviction and only prayed for reduction of sentence on the ground that parties have effected compromise and now there is no ill-will between them and they want to lead peaceful life. He also contended that appellant No.3 is the sole bread earner of his family and he is suffering from criminal proceedings since 2001. Learned counsel next contended that appellant No.3 has already undergone more than 04 months and 08 days of actual sentence including remission. He further contended that a compromise has already been effected between the parties.

Learned counsel for respondent No.2-complainant also admitted the factum of compromise.

On the other hand, learned State counsel argued that case of the prosecution has been duly proved by the PWs. There is nothing on the

record to show false implication of the accused in the present case. He, therefore, argued that there being no merit, the present appeal should be dismissed.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 02.09.2004 passed by learned Sessions Judge, Kapurthala, is correct, as per law and does not require any interference from this Court.

However, from the record, I find that this is a case in which sentence can be reduced as no weapon has been recovered from appellant No.3-Rajpal Singh. Only fist blow is attributed to him. Two accused including the main accused had already died during the pendency of the appeal. Injury No.5 is attributed to appellant No.3, but in the opinion of doctor "it is no injury". Moreover, at the time of alleged occurrence, appellant-Rajpal Singh was aged about 21 years.

Therefore, keeping in view above facts and circumstances of the present case and the fact that appellant No.3 is stated to be the sole bread earner of his family and suffering from long protracted criminal proceedings since 2001 i.e. for the last about 17 years and further that he has already undergone actual sentence of more than 4 months and 08 days including remission, coupled with the fact that parties have effected compromise, the sentence imposed upon appellant No.3 is reduced to the sentence already undergone by him. However, the payment of fine and in default thereof, shall remain the same. He is directed to pay the fine within one month from

the date of receiving the certified copy of the order, if already not paid, otherwise, the trial Court is directed to take necessary action as per law.

Accordingly, the present criminal appeal stands partly allowed qua appellant No.3-Rajpal Singh.

Since, appellant No.3 Rajpal Singh is on bail, his bail/surety bonds stand discharged.

16.02.2018
Jasmine Kaur

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No