

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

Criminal Appeal S-2032-SB of 2004

Date of Decision: February 22, 2018

Jaswant Singh and anotherAppellants

Versus

State of Punjab Respondent

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

Present : Mr. Pranav Chadha, Advocate as legal aid counsel
for Goldi @ Baljinder Singh, the surviving appellant.

Mr. Sarabjit Singh Cheema, Asstt. A.G., Punjab.

T.P.S.MANN, J. (Oral)

The appellants, namely, Jaswant Singh and Goldi @ Baljinder Singh alongwith Sawinder Singh were tried for committing offences punishable under Section 307 read with Section 34 IPC. Vide judgment and order dated 17/18.9.2004, learned Additional Sessions Judge (Adhoc), Fast Track Court, Gurdaspur acquitted Sawinder Singh accused of the charge against him. Both the appellants were, however, held guilty under Section 307 read with Section

34 IPC and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.200/- each and in default of payment of fine, to further undergo rigorous imprisonment for twenty days. The period already undergone by them was ordered to be set off against the sentence of imprisonment imposed upon them.

Aggrieved of their conviction and sentence, the appellants filed the present appeal, which was admitted on 15.10.2004. Both the appellants were on *interim* bail from the learned trial Court and, accordingly, it was directed that their sentences would remain suspended till the disposal of the trial.

When the appeal came up for final hearing before this Court on 31.7.2017, none put in appearance on behalf of the appellants. Accordingly, notice was issued to them to show cause as to why the order dated 15.10.2004 passed by this Court while suspending their sentences of imprisonment be not recalled.

On the adjourned date, the Office brought to the notice of this Court that Jaswant Singh appellant has already died whereas Goldi @ Baljinder Singh appellant could not be served as he had already left the place of his residence. Accordingly, learned State counsel was directed to obtain

instructions regarding the factum of death of Jaswant Singh.

On 4.12.2017, when the appeal was again taken up for final hearing, learned State counsel placed on record the affidavit of Shri Ravinder Kumar, PPS, Deputy Superintendent of Police, Sub-Division Fatehgarh Churian, District Gurdaspur, as per which, the factum of death of Jaswant Singh appellant having taken place on 21.10.2010 stood duly verified. However, none had put in appearance on behalf of Goldi @ Baljinder Singh.

On the adjourned date, this Court directed the High Court Legal Services Committee to nominate a panel counsel for pleading the cause of Goldi @ Baljinder Singh, the surviving appellant. Pursuant to the same, Mr. Pranav Chadha, Advocate, who has been nominated by the Legal Services Committee to represent Goldi @ Baljinder Singh appellant has put in appearance.

According to the prosecution, on 14.7.2002 at about 2.30 p.m., both the appellants had caught hold of the arms of Sukhwinder Singh whereas their co-accused Kulwinder Singh (declared to be a juvenile) took out a knife from his pocket and thrust it in the left side of the chest of Sukhwinder Singh. The occurrence was witnessed by Puran Singh and Kuldip Singh, who raised an alarm and the

accused fled away from the spot. The motive behind the occurrence was land dispute, which was pending between the parties.

After hearing learned counsel for the parties and on going through the record, this Court finds that the prosecution has led cogent and convincing evidence to connect the surviving appellant, i.e. Goldi @ Baljinder Singh with the commission of the crime, in which, Sukhwinder Singh had received an injury. Sukhwinder Singh had himself stepped into the witness box as PW2 whereas Puran Singh, who had witnessed the occurrence was examined as PW1. Despite being subjected to thorough cross-examination, the defence could not bring any material on record to show that the accused had been falsely implicated. The ocular account of the occurrence is duly corroborated by medical evidence, namely, PW4 Dr. Gurmit Singh, PW8 Dr. Baldev Singh and PW9 Dr. Ajay Verma. Merely because, the FIR was registered after a delay of 22 hours is no ground to reject the prosecution case as the first anxiety on the part of those, who had witnessed the occurrence was to take care of injured, who had suffered a serious injury on his person. The defence plea that the accused had been falsely implicated has no legs to stand upon for the reason that the presence of PW2

Sukhwinder Singh at the time of the occurrence could not be doubted, he being the injured in the case.

In view of the above, no fault can be found with the impugned judgment of conviction qua Goldi @ Baljinder Singh appellant.

As regards the quantum of sentence, it may be noticed that Goldi @ Baljinder Singh appellant is suffering the agony of criminal prosecution for the last more than fifteen years. He was not shown to be armed with any weapon at the time of the commission of the offence. The only role attributed to him was of catching hold of the injured.

As per the custody certificate produced by the learned State counsel, Goldi @ Baljinder Singh appellant has already undergone a period of one month and nine days out of the sentence of one year imposed upon him.

After taking into consideration the totality of the circumstances, this Court is of the view that Goldi @ Baljinder Singh appellant who is on bail for the last more than thirteen years need not be sent behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice shall be suitably met, if his sentence of imprisonment is reduced to the one already undergone by him.

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Resultantly, the appeal filed by Jaswant Singh appellant against his conviction of sentence is disposed of as having abated on account of his death. At the same time, the conviction of Goldi @ Baljinder Singh appellant under Section 307 read with Section 34 IPC is upheld. The substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs.200/- imposed upon him is, however, enhanced to Rs.1,000/-. The fine amount be deposited by the surviving appellant in the Court of Chief Judicial Magistrate, Gurdaspur within a period of three months from today, failing which, he shall undergo simple imprisonment for one month. The entire amount of fine, if deposited or recovered from the surviving appellant be disbursed in favour of Sukhwinder Singh injured as compensation. The appeal of Goldi @ Baljinder Singh appellant is, accordingly, disposed of.

February 22, 2018

amit rana

**(T.P.S. MANN)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No