

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

**Crl. Appeal S-246-SB of 2006**  
Date of Decision : November 29, 2018

Rajwant Singh @ Jaswant Singh

.....Appellant

**VERSUS**

State of Haryana

.....Respondent

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

Present : Mr. Saurabh Kapoor, Advocate for  
Mr. Ashit Malik, Advocate  
for the appellant.

Mr. Vikrant Pamboo, Deputy A.G., Haryana.

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

The appellant, namely, Rajwant Singh @ Jaswant Singh alongwith Gurcharan @ Charanjit and Jaspal @ Jassa was tried for committing the offences punishable under Section 307 read with Section 34 IPC, Section 506 IPC and Section 25 of the Arms Act. Vide judgment and order dated 20.12.2005, learned Additional Sessions Judge, Jind acquitted Gurcharan @ Charanjit and Jaspal @ Jassa-accused of the charges against them. However, the appellant was convicted under Section 307 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs. 1,000/-. He

was also convicted under Section 506 IPC and sentenced to undergo rigorous imprisonment for one month. He was, further, convicted under Section 25 of the Arms Act and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/-. In default of payment of fine, he was directed to further undergo rigorous imprisonment for a period of six months.

Aggrieved of his conviction and sentence, the appellant filed the present appeal which was admitted on 6.2.2006. Subsequently, vide order dated 7.3.2006, he was granted the concession of bail during the pendency of the appeal.

According to the prosecution on 2.7.2002 at about 2.45 p.m., complainant-Mewa Singh, who had taken one acre of land from the appellant on mortgage and had sown Jawar crop in it, was irrigating his land when the appellant alongwith Gurcharan @ Charanjit and Jaspal @ Jassa came there. At that time, the appellant was armed with a pistol while the two other accused armed with lathi and gandasi. The appellant fired a shot upon the complainant, who saved himself. Another shot fired by the appellant also missed the complainant, who ran away from the spot. Subsequently, on the basis of statement made by the complainant, FIR No.297 dated 2.7.2002 under Sections 307/506/34 IPC was registered at Police Station Safidon.

After hearing learned counsel for the parties and on

going through the record, learned trial Court acquitted Gurcharan @ Charanjit and Jaspal @ Jassa of the charges against them. However, the appellant was convicted and sentenced, as mentioned above.

Learned counsel for the appellant states that the prosecution has not led cogent and convincing evidence to sustain the charge against the appellant. Further, the prosecution case is highly doubtful as despite the fact that the appellant had allegedly fired twice at the complainant he was not hit. It is also submitted that the appellant has already undergone a period of about 2½ years behind the bars out of the sentence of seven years imposed upon him. Therefore, lenient view be taken in the matter of sentence of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the prosecution has been successful in proving the charge against the appellant and, hence, he does not deserve any leniency in the matter of sentence of imprisonment and fine.

After hearing learned counsel for the parties and on going through the impugned judgment, this Court finds that the prosecution has been able to prove its case against the appellant by relying upon the testimonies of PW10 complainant-Mewa Singh and PW11 Pritam Singh, who had deposed about the manner in which the occurrence had taken place and also the

firing by the appellant at the complainant. Their testimonies are further corroborated by PW12 Nishan Singh, who deposed that when he went to the fields of the complainant, he saw the accused damaging his crop. This fact is further established when PW13 Satwinder Singh also deposed about the damaging of the crop of the complainant by the accused. Even if the complainant had escaped unhurt on account of being fired at by the appellant, it cannot be said that the prosecution could not prove its case beyond reasonable doubt.

As regards the quantum of sentence, it may be noticed that the appellant is facing the agony of criminal prosecution for the last more than 16 years. Though the appellant had twice fired at complainant-Mewa Singh but he was not hit. As per the custody certificate produced by the learned State counsel, the appellant has undergone an actual period of two years, five months and twenty eight days inclusive of post-conviction period of two months and twenty five days. When the appellant was heard by the learned trial Court on the quantum of sentence, he had stated that he was a poor person and having small children to look after. Further, he was the sole bread winner of his family.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellant behind the bars to undergo

the remaining sentence of imprisonment imposed upon him. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him. However, the fine amount of Rs.1,000/- imposed upon him for the offence under Section 307 IPC and of Rs.500/- for the offence under Section 25 of the Arms Act can be enhanced.

Resultantly, the conviction of the appellant for the offences under Section 307 IPC read with Section 34 IPC and Section 506 IPC as well as under Section 25 of the Arms Act is maintained. The fine of Rs. 1,000/- for the offence under Section 307 IPC is enhanced to Rs. 5,000/- whereas the fine of Rs.500/- for the offence under Section 25 of the Arms Act is enhanced to Rs.2,000/-. In default of payment of fine, he shall undergo simple imprisonment for six months.

The appeal is, accordingly, disposed of.

**November 29, 2018**  
ajay-1

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

|                            |   |        |
|----------------------------|---|--------|
| Whether speaking/reasoned. | : | Yes/No |
| Whether Reportable.        | : | Yes/No |