

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

Criminal Appeal S-330-SB of 2005

Date of Decision: April 5, 2018

Jai Pal Singh and others	Versus	Appellants
State of Haryana		 Respondent

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

Present : Mr. Sunil Panwar, Advocate
for the appellants.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

T.P.S.MANN, J.

This appeal is directed against the judgment and order dated 21/22.1.2005 passed by the learned Additional Sessions Judge, Fast Track Court, Ambala.

Vide impugned judgment and order, learned trial Court convicted the appellants under Sections 323/34 IPC and sentenced them to undergo rigorous imprisonment for six months and to pay a fine of Rs.250/- each and in default of payment of fine, to further undergo rigorous imprisonment for seven days. They were further convicted under Sections 325/34 IPC and

sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days. They were further convicted under Sections 307/34 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for one month. They were also convicted under Sections 447/34 IPC and sentenced to pay fine of Rs.250/- each and in default thereof to further undergo rigorous imprisonment for seven days. All the sentences were ordered to run concurrently. The period already spent by them in custody during the investigation, inquiry and trial was ordered to be set off from the substantive sentence imposed upon them.

According to the prosecution, on 21.5.2002 at about 7.00/7.30 a.m., Sham Singh complainant was going towards the bara, used for tethering the cattle, from his house, when, on the way Sultan Singh accused met him and told him to accompany him for the purpose of demarcation of the bara. On reaching the bara, the complainant found Jagmal Singh, Jai Pal Singh, Rajbir Singh and Prem Singh accused already present there. Sultan Singh told the complainant to demarcate the bara and, accordingly, placed the pegs and fixed the wire. When Sultan Singh accused tried to fix the pegs with the help of iron gadala in

the land of the complainant, the latter asked the former to fix the pegs in his land. There ensued exchange of abuses and fisticuffs took place. Jagmal Singh accused held the complainant from behind whereas Sultan Singh inflicted gadala on his face. As a result, he sustained injuries on his lips and teeth. Thereafter, Prem Singh accused gave lathi blow on the head of the complainant and another blow on his left arm. The complainant raised an alarm. On hearing the same, Ganga Singh, nephew of the complainant came running from his house. Meanwhile, Rajbir Singh brought a gandasi from his house. When Ganga Singh tried to rescue the complainant Prem Singh inflicted lathi blow on his left eye. As a result, Ganga Singh fell down on the ground. Rajbir Singh gave gandasi blow on the head of Ganga Singh whereas Jai Pal Singh accused gave an iron rod blow on the forehead of Ganga Singh. The accused then ran away from the spot while carrying their respective weapons.

It is also the case of the prosecution that on the basis of statement made by Sham Singh complainant, FIR No. 96 dated 21.5.2002 under Sections 323/324/34 IPC was registered against the accused at Police Station, Brara. Subsequently, offences under Sections 325, 307 and 452 IPC were added. During the investigation Prem Singh and Rajbir Singh were found innocent. Accordingly, Jai Pal Singh, Sultan Singh and Jagmal Singh

accused were challaned. Both Prem Singh and Rajbir Singh were later on summoned under Section 319 Cr.P.C. to face the trial.

The trial of the case ended with the conviction and sentences of all the accused, as mentioned above.

This Court need not go further into the merits of the case for the reason that during the pendency of the appeal, both the parties have entered into a compromise. All the five appellants and the two injured besides respectables of the village have appended their signatures/thumb impressions on the compromise deed. Both the injured have also executed their respective affidavits, wherein, they have confirmed the factum of compromise. The compromise deed and the affidavits have already been taken on record of the appeal as Annexures A1, A2 and A3, respectively. Both Sham Singh and Ganga Singh have already got recorded their joint statement, in which, they have reiterated the factum of compromise arrived at between them on the one side and the appellants on the other. They have stated that the parties belong to one and the same village. They are residing in close vicinity of each other. Even their agricultural lands are nearby. At the intervention of the Panchyat and the prominent/respectable persons of the village, they have amicably settled their *inter se* dispute, which has resulted in improvement in brotherhood besides peace and tranquility being restored.

Moreover, the occurrence in question had taken place about sixteen years ago. On account of the compromise arrived at between the parties, their family members have started visiting each others' house and interacting with them. In view of the compromise, they have no objection, if any, benefit arising out of the same is extended to the appellants.

Some of the offences are not lawfully compoundable. As such, on account of the compromise arrived at between the parties, the appellants cannot be acquitted of the charges against them. However, the factum of compromise arrived at between the parties can be taken as a mitigating circumstance while considering the question of sentence.

As per the custody certificates produced by the learned State counsel, Jai Pal Singh appellant has undergone three months and five days out of the sentence of imprisonment imposed upon him whereas Sultan Singh has undergone four months and thirteen days, Jagmal Singh has undergone twenty nine days while Prem Singh and Rajbir Singh appellants, who were initially found innocent during the investigation of the case but later on summoned under Section 319 Cr.P.C. as additional accused, have undergone a period of two days each. None of the appellants is either shown to be involved or convicted in any other case.

Taking into consideration the totality of the circumstances, this Court is of the view that the appellants who are on bail for the last more than thirteen years and have not misused the concession of bail in any manner, need not be sent behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice shall be suitably met if their substantive sentences of imprisonment are reduced to the one already undergone by them.

Resultantly, the conviction of the appellants, as recorded by the learned trial court is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. The sentences of fine alongwith their default clauses are maintained.

The appeal is, accordingly, disposed of.

April 5, 2018
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No