

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

**CRA-S-1401-SB-2014
Date of decision:-24.1.2018**

Tejinder Singh @ Lamber @ Minku and others

....Appellants

Versus

State of Punjab

....Respondent

CORAM : HON' BLE MR. JUSTICE H.S. MADAAN

Present : Mr.G.S. Kaura, Advocate
for the appellants.

Mr.Rakeshinder Singh Sidhu, AAG, Punjab.

H.S. MADAAN, J.

Tejinder Singh @ Lamber @ Minku, Sukhwinder Singh @
Sukha and Ranjit Singh @ Jita, all of them being accused in FIR No.251
dated 22.12.2009 for the offences under Sections 307, 450, 447, 511,
506 read with Section 34 IPC and 25 and 27 of Arms Act, 1959,
registered with Police Station Shahkot, Jalandhar faced trial by
Additional Sessions Judge, Jalandhar and vide judgment dated
12.3.2014, accused Tejinder Singh @ Lamber @ Minku, Ranjit Singh

@ Jita, Sukhwinder Singh @ Sukha were acquitted of the offences under Sections 450, 447, 511 read with Section 34 IPC and accused accused Tejinder Singh @ Lamber was also acquitted of the offence under Section 25 of the Arms Act, whereas he along with Ranjit Singh @ Jeeta, Sukhwinder Singh @ Sukha were convicted for the offences under Sections 307, 452 read with Section 34 IPC and vide order of that very date, they were sentenced as follows:

Name of the convict	Under Section	Sentence
Tejinder Singh @ Lamber @ Minku	307 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for three months.
	452 read with Section 34 IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for one month.
Ranjit Singh @ Jeeta	307 read with Section 34 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for three months.
	452 read with Section 34 IPC	Rigorous imprisonment for two years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for one month.
Sukhwinder Singh @ Sukha	307 read with Section 34 IPC	Rigorous imprisonment for five years and to pay a fine of Rs.5,000/- and in default thereof, to further undergo rigorous imprisonment for three months.
	452 read with Section 34 IPC	Rigorous imprisonment for two years and to pay a fine

		of Rs.1,000/- and in default thereof, to further undergo rigorous imprisonment for one month.
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Both the sentences were ordered to run concurrently.

It is pertinent to mention here that accused Ravinder Singh @ Raju was declared a proclaimed offender.

Briefly stated, the prosecution story is that the FIR in this case was registered on the basis of statement of Nirmal Singh @ Billu son of Charan Singh, resident of village Bhoipur, which he got recorded with ASI Jaswant Singh on 22.12.2009, who was heading a police party from Police Station Shahkot and present at Adda Bajwa Kalan in connection with patrolling and checking of bad elements. In the said statement, the complainant stated that he and his brothers are having six acres of agricultural land; that a joint plot of well measuring 17 marlas owned by them as well as Rajinderpal Singh son of Bachan Singh, resident of Aidelpur; that about four months prior to the incident, the Gram Panchayat had got divided the plot between the joint owners; that on 22.12.2009 at about 9:30 a.m., a Safari vehicle of white colour, whose number plate was smeared with mud came there having occupants Tejinder Singh @ Lamber @ Minku son of Rajinderpal Singh, Ravinder Singh @ Raju son of Jarnail Singh, Ranjit Singh @ Jita son of Sukhwinder Singh and Sukhwinder Singh @ Sukha son of Kundan Singh, residents of village Salaichan and after parking the vehicle, they forcibly entered into the house of complainant; that at that time Tejinder Singh @ Minku and Ranjit Singh @ Jita were armed with pistols, Ravinder Singh @ Raju armed with datar, Sukha armed with

danda; that Tejinder Singh @ Minku fired a shot at the complainant with an intention to kill him, however, the complainant bowed down and shot hit the wall; that then complainant and his brother Harjinder Singh along with their family members saved their lives by entering into the rooms and bolting those rooms from inside; that thereafter the assailants left the scene of occurrence along with the respective weapons in their vehicle threatening to kill the complainant side if they tried to come to the plot. On the basis of that statement, formal FIR was registered. Accused were arrested. After completion of investigation and other formalities, challan against the accused was prepared and presented in the Court.

After the trial, learned trial Court convicted and sentenced accused as mentioned above, which left accused – appellants Tejinder Singh @ Lamber @ Minku, Sukhwinder Singh @ Sukha and Ranjit Singh @ Jita aggrieved and they have filed the present appeal, which was admitted and recovery of fine had been ordered to be stayed during pendency of the appeal.

The matter has since been compromised between the parties. An affidavit of Nirmal Singh – complainant in that regard has been placed on file. Vide order dated 30.5.2014, sentence of imprisonments of the appellants was suspended during the pendency of the appeal and they were ordered to be released on bail.

I have heard learned counsel for the appellants – accused - convicts, learned Assistant Advocate General for the State of Punjab besides going through the record.

Fortunately, in the incident nobody was injured. The parties

have since settled the dispute between them. Although offence under Section 307 IPC is not compoundable but in view of the ratio of the authority **Puttaswamy Versus State of Karnataka and Another, 2009(1) R.C.R.(Criminal) 501** by the Apex Court, this fact can be taken into consideration while awarding sentence.

As per the custody certificates, Tejinder Singh @ Lamber @ Minku has already undergone about 3 months and 10 days of imprisonment and Sukhwinder Singh @ Sukha and Ranjit Singh @ Jita have already undergone about 2 months and 19 days, out of the total sentence of five years of rigorous imprisonment for the offence under Section 307 IPC and 2 years of rigorous imprisonment for the offence under Section 452 IPC.

In **Puttaswamy's** case referred supra, the Apex Court had observed that non-compoundable offence cannot be compounded, but sentence may be reduced if the parties confirmed the matter. As per facts of that case in view of the compromise entered into between the parties in a case under Sections 279 and 304-A IPC sentence was reduced to already undergone.

It being so, the conviction of the appellants/accused/convicts is maintained since the prosecution by leading enough cogent and convincing evidence has been able to prove its charge against the accused conclusively and affirmatively. However, as regards the sentence part, the judgment passed by the trial Court is modified and appellants/accused/convicts are sentenced to imprisonment already undergone by them in this case, whereas fine part is maintained.

As such this appeal challenging the impugned judgment

stand disposed of with above modification in sentence.

Necessary intimation be sent to the quarter concerned.

24.1.2018
Brij

(H.S.MADAAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No