

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

- 1) CRA-D-133-DB-2017 (O&M)
...
Gurbax Singh and others
.....Appellants
vs.
State of Punjab
.....Respondent
- 2) CRA-D-185-DB-2017 (O&M)
...
Amrik Singh
.....Appellant
vs.
State of Punjab
.....Respondent
- 3) CRA-D-205-DB-2017 (O&M)
...
Narain Singh
.....Appellant
vs.
State of Punjab
.....Respondent
- 4) CRA-D-242-DB-2017 (O&M)
...
Swaran Singh @ Mangli and another
.....Appellants
vs.
State of Punjab
.....Respondent

Reserved on:-13.9.2019

Date of decision :-26.9.2019

**Coram: Hon'ble Mr. Justice Rajiv Sharma, Acting Chief Justice
Hon'ble Mr. Justice H. S. Madaan**

**Present: Mr. K.B. Raheja, Advocate for the appellants in
CRA-D-133-DB-2017**

**Mr. K.D.S. Hooda, Advocate for the appellants in
CRA-D-242-DB-2017, CRA-D-205-DB-2017 and
CRA-D-185-DB-2017**

Mr. H.S. Garewal, Additional Advocate General,
Punjab - for the respondent State.

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H. S. Madaan, J.

Vide this judgment, we propose to dispose of four appeals i.e. **CRA-D-133-DB-2017** filed by Gurbax Singh and others, **CRA-D-185-DB-2017** filed by Amrik Singh, **CRA-D-205-DB-2017** filed by Narain Singh, **CRA-D-242-DB-2017** filed by Swaran Singh @ Mangli and another, all of them being accused/convicts.

Briefly stated, facts of the case are that on 28.10.2013, a Q.S.T. message was received from P.S.City Fazilka, at police station Arniwala with regard to admission of injured Gurmeet Singh, Surjit Kaur, Gurmukh Singh, Chhinder Kaur, Amrik Singh etc. of village Mammu Khera, in Civil Hospital, Fazilka. On receipt of such information Sub Inspector, Kartar Singh (hereinafter to be referred as 'the Investigating Officer'), along with other police officials went to Civil Hospital, Fazilka and moved written requests Ex.PW4/A EX.PW4/C there to enquire about the fitness of injured persons for making statements. The doctors concerned declared all the injured fit to make statements. Thereafter, SI Kartar Singh recorded statement of Gurmeet Singh son of Sardar Singh, aged about 25 years, resident of village Mammu Khera Khatwa, Police Station Arniwala Ex.P1 wherein he stated that he is an agriculturist by avocation; on that day he alongwith his uncle Hazara Singh son of Pyar Singh and his cousin brother Gurmukh Singh, of village Mateeli, District Ganganagar, who had come to visit him in his Gypsy, had gone to

their fields to pay obeisance at Smadh of their grand forefathers; at about 5.15 P.M. while they were returning home and had reached in front of the house of Jarnail Singh, then a bullock cart was found parked in the street; they alighted from the Gypsy and tried to move aside the bullock cart; in the meanwhile, Amrik Singh son of Narain Singh armed with a Kasia, Narain Singh son of Mahla Singh armed with a dang, Swaran Singh @ Mangli son of Narain Singh armed with an iron Sariya (iron rod), Sukhmail Singh son of Veer Singh armed with a dang, Taro Bai wife of Jarnail Singh empty handed, Gurbax Singh son of Surain Singh armed with an axe, Chhinder Kaur wife of Gurbax Singh empty handed, Pawanjeet Singh son of Gurbax Singh armed with a gandasi, Pardeep Singh son of Gurbax Singh armed with a base ball bat, all residents of that very village came out of their house and on a Lalkara (exhortation) being raised by Narain Singh and Swaran Singh that complainant party should be taught a lesson for getting the street vacated, Amrik Singh opened the attack and gave a Kasia blow from its sharp side to Hazara Singh, uncle of the complainant with an intention to kill him and the blow found its target on the backside of head of Hazara Singh; when Gurmukh Singh, went forward to rescue Hazara Singh, then Amrik Singh gave a Kasia blow from its sharp side to Gurmukh Singh, which hit him on his right shoulder. Thereafter Swaran Singh gave two iron rod blows to Gurmukh Singh, which hit on the left and right side of his head. Accused Sukhmail Singh gave two dang blows to Gurmukh Singh, which hit on his nose and right side of his forehead, whereas accused Pardeep Singh gave two blows with base ball bat to Gurmukh Singh,

which hit on his palm of right hand and right shoulder. Thereafter accused Gurbax Singh gave two axe blows from its reverse side to Gurmukh Singh , which hit him on his left shoulder and left thigh. The complainant raised hue and cry and went forward to rescue Gurmukh Singh, then accused Pawanjeet Singh gave two gandasi blows from its reverse side to the complainant hitting him on the left side of his head and on left ear, as a result of which, the complainant fell down. Thereafter accused Narain Singh gave two dang blows to the complainant, which hit on the muscle and elbow of his left arm. Then Gurbax Singh gave an axe blow which hit above the right shoulder of complainant. Then accused Sukhmail Singh gave a dang blow to the complainant hitting him on the little finger of left hand. The injured raised an alarm, which attracted Surjeet Kaur, mother of the complainant, who was working nearby in their cattle shed, to the spot and she lied down on the complainant. Then Gurbax Singh gave two axe blows from its reverse side to Surjeet Kaur, which hit on her breast and left leg. Accused Pawanjeet Singh gave two dang blows to Surjit Kaur, which hit her on right shoulder and elbow of right arm. Then accused Pardeep Singh gave two blows with base ball bat to her, which hit on right side of her head and right thigh. During the incident, gold ear ring of Surjeet Kaur fell down, which was picked up by Chhinder Kaur. Thereafter, Jaspal Singh son of Lal Singh, Raj Kumar son of Jawahra Ram, Kashmir Chand son of Daulat Ram, Niranjana Singh son of Gian Singh, all residents of the said village arrived at the spot and they rescued the injured from the clutches of accused and then all the accused fled away from the spot along with

their respective weapons.

The complainant besides other injured were removed to Civil Hospital, Fazilka, where they were medico-legally examined. On account of severe head injury, Hazara Singh was referred to Guru Gobind Singh Medical College, Faridkot for treatment, from where he was referred to P.G.I., Chandigarh. According to the complainant, the motive behind the occurrence was that there was a dispute between the complainant party and accused party regarding closing of street and for that reason, all the accused in connivance with each other had caused injuries to them. The statement was signed by Gurmeet Singh complainant. SI Kartar Singh put his endorsement as Ex P4/D below that statement. He recorded police proceedings and sent ruqa to Police Station Arniwala through PHG Partap Singh, on the basis of which formal FIR Ex.P4/F was recorded by ASI Harbans Lal. SI Kartar Singh also recorded statements of injured Gurmukh Singh and Surjeet Kaur and from the other side he recorded the statement of Chhinder Kaur wife of Gurbax Singh. From the statement of Chhinder Kaur, offences under Sections 324, 323 IPC were made out. On the same day, injured Gurmeet Singh and Gurmukh Singh produced before SI Kartar Singh blood stained clothes worn by them at the time of incident. The Investigating Officer prepared the parcel of such clothes, sealing those with seal impression KS and returned to police station due to suspicious circumstances concerning the incident, the report was noted in the DDR register whereas parcel of clothes was deposited with MHC.

On the basis of said statement of the complainant, the

present FIR No. 111 dated 28.10.2013 for offences Section 307/379/324/323/341/148/149 IPC was registered.

On 29.10.2013, the Investigating Officer visited the place of occurrence preparing rough site plan thereof as Ex.PW4/G. He lifted blood stained earth and simple earth preparing their separate parcels sealing those with seal having impression KS and taking those parcels into police possession vide recovery memo Ex.PW4/11 attested by witnesses. He recorded the statement of witnesses and on return to the police station, deposited the case property with MHC.

Subsequently, on 4.11.2013, on receipt of information regarding death of Hazara Singh from P.G.I. Chandigarh, vide report No. 12 dated 04.11.2013, offence under Section 302 IPC was added. Postmortem on the dead body of deceased Hazara Singh was got conducted and his blood stained clothes and belongings were taken into police possession vide separate recovery memos.

Thereafter, police party headed by SI Kartar Singh, went to PGI. The Investigating Officer carried out inquest proceedings with regard to death of Hazara Singh preparing report Ex.PW4/1. He recorded statements of witnesses. Since it were late hours the postmortem examination on the dead body of deceased Hazara Singh could be got conducted on the next day only. After the postmortem examination was conducted on dead body of Hazara Singh, on 5.11.2013, the dead body was handed over to his relatives. The belonging of deceased handed over to the Investigating Officer by the Medical Officer, were converted into a parcel, which was sealed and then it was taken into police possession vide recovery memo

Ex.PW4/J, attested by witnesses, which was witnessed by HC Ram Saroop and Tarsem Singh had produced Kurta Pajama of deceased Hazara Singh which was blood stained. It was converted into a sealed parcel and taken into police possession vide memo Ex.PW4/L. On return to the police station, case property was deposited with MHC.

On 09.11.2013, SI Kartar Singh was associated with the police party headed by Inspector Darshan Singh, which was carrying out investigation of this case. Accused Amrik Singh, Narain Singh and Taro Bai were arrested in this case. Their personal search were conducted and memos in that regard were prepared. Intimation regarding their arrest was given to their families. During the course of interrogation, accused Amrik Singh suffered a disclosure statement that he had kept concealed the 'Kasia' in the chaff room in his house about which only he knew and could get the same recovered. Said statement was reduced into writing which is Ex.P3/G It was signed by that accused and attested by witnesses. Such accused in pursuance of the disclosure statement made by him, got the blood stained Kasia recovered from the disclosed place, which was taken into possession vide memo Ex.P3/H . Its rough sketch was prepared. Site plan of the place of recovery was also drawn.

During the course of interrogation accused Narain Singh had also suffered a disclosure statement to the effect that he had kept concealed the dang in the heap of cotton sticks and only he had knowledge of the same and could get that recovered. Such disclosure statement was recorded as Ex.P3/K, which was signed by that

accused and attested by witnesses. Then such accused in pursuance of statement made by him got recovered the dang which was taken into police possession vide memo Ex.P3/L. Site plan of the place of recovery was prepared and statements of the witnesses were recorded. On 13.11.2013, the police party headed by Inspector Darshan Singh arrested accused Sukhmail Singh son of Veer Singh. His personal search was conducted and notice of arrest was served upon him. Accused Sukhmail Singh produced the dang which was taken into possession by vide memo Ex.P3/0, which was attested by the witnesses.

On 28.4.2014, while Inspector Mukhtiar Singh, posted at Police Station Arni Wala, was carrying out investigation, he had arrested accused Chhinder Kaur, vide arrest memo Ex.P13/A. Her personal search was got conducted and a memo was prepared in that regard. On 27.5.2014, Pardeep Singh and Pawanjit accused were arrested. Pardeep Singh had produced before Inspector Mukhtiar Singh a baseball bat used by him in the incident. It was taken into police possession vide a memo. Accused Pawanjit Singh had produced a Gandasi, used by him in the occurrence. It was also taken into police possession vide a memo. Case property was deposited with the MHC Police Station Arni Wala. Accused Gurbax Singh was arrested on 9.6.2014. He had produced before Inspector Mukhtiar Singh a kulhari used by him at the time of occurrence, which was taken into police possession vide memo Ex. P13/H.

Separate inquiry was being conducted by S.P. (D), Fazilka regarding the alleged innocence of accused Swaran Singh @ Mangli,

Gurbax Singh, Chhinder Kaur, Pawanjeet Singh and Pardeep Singh in the present occurrence and it was observed that after the inquiry, their separate challan would be presented in the court.

After completion of investigation and other formalities, challan against the accused Amrik Singh, Narain Singh, Taro Bai, Sukhmail Singh was prepared and filed in the Court of Judicial Magistrate Ist Class, Fazilka whereas names of accused Swaran Singh, Gurbax Singh, Chhinder Kaur, Pawanjeet Singh and Pardeep Singh were kept in Column No.2 of that challan i.e. report under Section 173 Cr.P.C.

On appearance of accused in the court of Illaqa Magistrate, copies of documents were supplied to them free of costs as envisaged under section 207 Cr.P.C. and then finding that offences were exclusively triable by the Court of Sessions, the said Magistrate vide order dated 6.10.2014 committed the case to the Court of Sessions. The Challan therefore, came up before Additional District Judge, Fazilka. Supplementary challan against accused Gurbax Singh, Chhinder Kaur, Pawanjit Singh and Pardeep Singh was filed in the court. It was also committed to the Court of Sessions. Accused Sarwan Singh was ordered to be summoned to face trial.

The challan and supplementary challan were tried together. Finding a prima facie case, charge for offence under Sections 302/324/323/341/379/ 148/149 IPC, was framed against the accused to which they pleaded not guilty and claimed trial.

During the course of its evidence, the prosecution examined Gurmit Singh complainant as PW-1, Surjeet Kaur, injured/eye witness

as PW-2, Inspector Darshan Singh as PW-3, Kartar Singh, Retired Sub Inspector, Investigating Officer as PW-4, Parkash Singh, Draughtsman as PW-5, Gurmukh Singh, injured/eye witness as PW-6, Dr. Raman Nanda Reddy, from Neuro Surgical Department, P.G.I. Chandigarh as PW-7, Dr. Satinder Pal Singh as PW-8, Dr. Kirandeep Kaur, Medical Officer as PW-9, Jaspal Singh as PW-10, ASI Baldev Singh, then MHC as PW-11, Constable Sandeep Kumar, No.818 as PW-12, Inspector Mukhtiar Singh as PW-13. Thereafter, the learned Addl.P.P. for the State closed the prosecution evidence.

After the closure of prosecution evidence, statements of accused under section 313 Cr.P.C. were recorded, wherein all the incriminating circumstances appearing against such accused were put to them, which they denied, contending that they are innocent and have been falsely involved in this case.

Accused Amrik Singh stated that on 27.10.2013 at about 5.30 PM Chhinder Kaur was present in her house when Hazara Singh armed with a Gandasi, Tarsem Singh armed with a Dang, Baj Singh son of Sardara Singh and Raj Singh alias Gumeet Singh son of Sardara Singh armed with a Gandasi, Toni son of Hazara Singh armed with a Dang, Surjit Kaur armed with a Sota, Dev Kaur and Jaspal Singh armed with Dangs and Sardaar Singh son of Piara Singh armed with a .12 bore gun came in a gypsy and by calling names to Chhinder Kaur, Jaspal Singh and Hazara Singh went to the house of Chhinder Kaur and raised Lalkara asking Chhinder Kaur to bring her man out of the house. On hearing this Chhinder Kaur came out and stopped the above said persons from abusing her and others. In the

mean time Deor (younger brother of husband of Chhinder Kaur) who was going to collect cotton pluckers in the fields came to the spot and he also refrained the above said persons from using filthy language. Then Hazara Singh gave a Gandasi blow to Chhinder Kaur with the intention to kill her but she got back and Gandasi blow hit her on left knee. Surjit Kaur gave a Sota blow hitting her right thumb. Surjit Kaur gave a push blow of Sota on her back. Then Amrik Singh a younger brother of husband of Chhinder Kaur came forward to rescue Chhinder Kaur then Tarsem Singh gave two continuous blows to Amrik Singh with intention to kill him and Dang blows hit him on the left side of head and left shoulder of Amrik Singh. Then Toni gave a Dang blow on the head of Amrik Singh but it fell on his back. Then Chhinder Kaur, Amrik Singh and others raised alarm of 'Mar Ditta Mar Ditta', which attracted her uncle from in laws side namely Narain Singh son of Mahla Singh and Veer Singh son of Mahla Singh, then Raj Singh gave a Gandasi blow to Veer Singh aiming it on his head with intention to kill him but Veer Singh raised his right hand to save that blow and Gandasi hit on his thumb from its sharp side. Then Hazara Singh gave a Gandasi blow on the head of Veer Singh who in order to save himself raised his right arm and Gandasi blow fell under his right elbow. Then Narain Singh went forward to rescue Chhinder Kaur and others from the clutches of above said persons, Jaspal Singh gave two Dang blows hitting left wrist and shoulder of Narain Singh. Sardar Singh son of Piara Singh kept on raising lalkaras to kill Chhinder Kaur and others by firing shots and to teach them a lesson and thus Sardar Singh with an intention to kill Chhinder Kaur and

other fired shots from his gun and on raising hue and cry by Chhinder Kaur and others, Gurnam Singh son of Dula Singh came to the spot and rescued Chhinder Kaur and others from the clutches of above said person. Then all the above said persons along with their respective weapons took to their heels by boarding a Gypsy. On hearing the noises Puran Singh son of Amar Singh who had come to meet his daughter namely Paramjit Kaur wife of Amrik Singh came to the spot and after arranging vehicle he got injured persons admitted in the Civil Hospital Fazilka, where doctor provided them medical aid. The motive behind the occurrence was that above said persons wanted to forcibly oust Chhinder Kaur and others from their plot bearing No.209/1 and with intention to kill them all the above said persons in prosecution of common object had caused them injuries.

Accused Narain Singh, Taro Bai, Swaran Singh @ Mangli, Chhinder Kaur, Gurbax Singh, Pawanjeet Singh and Pardeep Singh also took the similar pleas as taken by accused Amrik Singh.

Whereas accused Sukhmail Singh pleaded that he has been falsely involved in this case being relation of Amrik Singh etc. otherwise he has nothing to do with the matter.

In their defence, the accused had examined Sh. Narinder Kumar, JTO, Bharat Sanchar Nigam Ltd. Fazilka, who had brought the summoned record regarding call details of mobile No.94176-19899 in the name of Swaran Singh son of Narain Singh for the period from 27.10.2013 till 26.11.2013. The said record is Ex.DW1/A containing certificate of correctness is Ex.DW1/B.

The accused tendered in evidence certified copy of enquiry

report Ex.D2, certified copy of complaint titled as Chhinder Kaur Versus Hazara Singh etc. as Ex.D3 and copy of summoning order as Ex.D4.

After hearing arguments, learned Additional Sessions Judge, Fazilka vide judgment dated 6.1.2017 acquitted the accused Chhinder Kaur and Taro Bai, whereas convicted accused namely Amrik Singh, Narain Singh, Sukhmail Singh, Swaran Singh, Gurbax Singh, Pawanjeet Singh and Pardeep Singh for the offences under Sections 302/323/324/341 read with Section 149 IPC and vide order dated 16.1.2017, they were sentenced as under:

Name of convict	Offence U/S	Rigorous imprisonment	Fine	In default of payment of fine
Amrik Singh	302 IPC	Life imprisonment	Rs.10,000/-	RI for one year
Amrik Singh	341 IPC	One month	Rs.500/-	RI for seven days
Amrik Singh	323 IPC	Six months	Rs.1,000/-	RI for one month
Amrik Singh	324 IPC	One year	Rs.2,000/-	RI for two months
Narain Singh	302 IPC	Life imprisonment	Rs.10,000/-	RI for one year
Narain Singh	341 IPC	One month	Rs.500/-	RI for seven days
Narain Singh	323 IPC	Six months	Rs.1,000/-	RI for one month
Narain Singh	324 IPC	One year	Rs.2,000/-	RI for two months
Sukhmail Singh	302 IPC	Life imprisonment	Rs.10,000/-	RI for one year
Sukhmail Singh	341 IPC	One month	Rs.500/-	RI for seven days
Sukhmail Singh	323 IPC	Six months	Rs.1,000/-	RI for one month

Sukhmail Singh	324 IPC	One year	Rs.2,000/-	RI for two months
Swaran Singh @ Mangli	302 IPC	Life imprisonment	Rs.10,000/-	RI for one year
Swaran Singh @ Mangli	341 IPC	One month	Rs.500/-	RI for seven days
Swaran Singh @ Mangli	323 IPC	Six months	Rs.1,000/-	RI for one month
Swaran Singh @ Mangli	324 IPC	One year	Rs.2,000/-	RI for two months
Gurbax Singh	302 IPC	Life imprisonment	Rs.10,000/-	RI for one year
Gurbax Singh	341 IPC	One month	Rs.500/-	RI for seven days
Gurbax Singh	323 IPC	Six months	Rs.1,000/-	RI for one month
Gurbax Singh	324 IPC	One year	Rs.2,000/-	RI for two months
Pawanjeet Singh	302 IPC	Life imprisonment	Rs.10,000/-	RI for one year
Pawanjeet Singh	341 IPC	One month	Rs.500/-	RI for seven days
Pawanjeet Singh	323 IPC	Six months	Rs.1,000/-	RI for one month
Pawanjeet Singh	324 IPC	One year	Rs.2,000/-	RI for two months
Pardeep Singh	302 IPC	Life imprisonment	Rs.10,000/-	RI for one year
Pardeep Singh	341 IPC	One month	Rs.500/-	RI for seven days
Pardeep Singh	323 IPC	Six months	Rs.1,000/-	RI for one month
Pardeep Singh	324 IPC	One year	Rs.2,000/-	RI for two months

Feeling aggrieved, the convicts/accused have approached this Court by way of filing separate appeals, notice of which was issued to the State.

We have heard learned counsel for the parties besides going through the record.

The incident had in fact taken place. But the crucial thing to be seen is as to whether it took place as per prosecution story or according to the version set up by the defence or in some other manner.

In the present case, Veer Singh from accused side as well as Narain Singh and Amrik Singh accused had also suffered injuries. There was a counter version of the incident put forward by the accused side, in terms of which, the complainant side was aggressor, but that has not been properly investigated by the investigating agency and the Sessions Court has not given due attention to the same. The injuries on the person of accused Amrik Singh and Narain Singh as well as Veer Singh having not been explained, it comes out that the genesis of the incident has been tried to be suppressed by the investigating agency and the prosecution story so put forward is to be viewed with some element of suspicion. Nevertheless the defence version that the complainant party was aggressor does seem to be plausible and convincing. As per the prosecution case, none out of the complainant and injured Gurmukh Singh, Hazara Singh, Surjeet Kaur was having any weapon. If that was so, then how did Amrik Singh, Narain Singh and Veer Singh received injuries in the same incident. It is not case of the prosecution that complainant Gurmeet Singh, Gurmukh Singh, Hazara Singh or Surjeet Kaur had snatched weapons from the accused causing injuries to them in self-defence. That also creates a doubt in the mind regarding veracity of the prosecution

story.

Another thing to be seen is that the ocular version is not fully in consonance with the medical evidence. As per the prosecution story, Amrik Singh had given two blows to Gurmukh Singh on backside of head as well as right shoulder, Swaran Singh @ Mangli had given two iron saria blows to Gurmukh Singh hitting him on left and right side of head, Gurbax Singh had given two gandasi blows from reverse side to Gurmukh Singh hitting him on left shoulder and left thigh. Gurmukh Singh injured having suffered injuries on 27.10.2013 had died after several days i.e. 4.11.2013 at PGI, Chandigarh. The doctor who had medico legally examined Gurbax Singh namely PW9 Dr.Kirandeep Kaur, Medical Officer, Civil Hospital Fazilka had observed incised wound measuring 15 cm x 1.5 cm on parietal region of scalp lying transversely.

Furthermore, it comes out to be a case of free fight and the incident does not seem to be outcome of pre-meditation, planning or assailants sharing a common intention or having common object. Rather it was a group clash and free for all. The assailants had caused injuries for which they are to be held responsible individually and not on account of sharing common intention or having common object or being co-conspirators.

None of the accused was having a fire-arm or a knife or kirpan etc. Rather they were having weapons like gandasi, dangs, which are normally there in the houses of the agriculturist used in agricultural operations. Though one of the assailant was having a baseball bat but that too cannot be termed as a weapon of offence,

though it can be used as such. Amrik Singh had given a kasia blow to Hazara Singh hitting him on backside of head, which was a vital part. Kasia is an agricultural equipment and as already observed it is normally there in the houses of agriculturist. A single blow of kasia from sharp side, which was not repeated, point out towards offence of culpable homicide showing that Amrik Singh had caused the blow with the knowledge that it was likely to cause death but his act and conduct fall short of having intention to cause death or to cause such bodily injury as was likely to cause death. Therefore, the offence of murder is not disclosed against Amrik Singh and offence which is disclosed against him is one under Section 304 Part II IPC.

As already observed since it was a case of free fight and common object and common intention to commit the offence does not come out to be there, each accused is responsible for his own individual act and not of others, invoking provision of Section 149 IPC. Therefore, offence of rioting under Section 148 IPC is not disclosed against the accused since as per definition of rioting under Section 146 IPC, the force or violence should be used by unlawful assembly or by any member thereof, in prosecution of common object of such assembly. Here no such common object comes out to be there. As such conviction of accused under Section 148 IPC is not sustainable and all the accused are acquitted for the said offence.

The trial Court has convicted the other accused for the offences under Section 302 IPC when only accused Amrik Singh had been charged for the substantive offence under Section 302 IPC and other accused for the offences under Sections 302 read with Section

149 IPC. Therefore, conviction of accused except accused Amrik Singh under Section 302 IPC is bad in eye of law and cannot be sustained. The conviction of accused Amrik Singh under Section 302 IPC is set aside and instead he is ordered to be convicted for the offence under Section 304 Part II IPC and sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.10,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of one year. Whereas conviction under Sections 341, 323 and 324 IPC is maintained.

Whereas conviction of accused Narain Singh for the offence under Section 302 IPC sentencing him to life imprisonment and to pay a fine of Rs.10,000/- and in default of payment of fine to undergo rigorous imprisonment for one year is set aside, whereas his conviction for the remaining offences is maintained.

Similarly, conviction and sentence of accused Sukhmail Singh, Swaran Singh @ Mangli, Gurbax Singh, Pawanjeet Singh and Pardeep Singh under Section 302 IPC is set aside, whereas their conviction and sentence for remaining offences is maintained.

With such modifications, the appeals are allowed partly.

	(Rajiv Sharma)	(H.S. Madaan)
	Acting Chief Justice	Judge
26.9.2019		
chugh/Brij		

Whether speaking / reasoned	Yes / No
Whether reportable	Yes / No