

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRA-S-358-SB-2016

Date of Decision:30.08.2019

Daljit Singh and another

...Appellants

Versus

State of Punjab and others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sanjeev Kumar, Advocate for the appellants.
Mr.Bhupinder Beniwal, AAG, Punjab.
Mr.J.S.Dadwal, Advocate for respondents No.2 and 3.

ANIL KSHETARPAL, J.

CRM-25722-2019

Application is allowed. Applicants Madha Singh and Bhajanpreet Singh are impleaded as party-respondents No.2 and 3, being first informant and injured. Amended memo of parties is taken on record.

CRM stands disposed of.

CRM-25850-2019

Application is allowed. Settlement dated 12.03.2019 arrived at between the parties is taken on record as Annexure A-1.

Main appeal

By this order, CRA-S-358-SB and CRA-S-493-SB of 2016 shall stand disposed off.

The present appeal is directed against the impugned judgment of conviction and order of sentence of even date, i.e. 21.01.2017 passed by the learned Additional Sessions Judge, Kapurthala, whereby the appellants

were convicted under Sections 307/324/323/34 IPC, sentenced to undergo rigorous following imprisonment:-

Name of accused	Offence under Section	Sentence
Daljit Singh	307/34 IPC	RI for a period of five years and to pay a fine of Rs.10,000/- and in default thereof, to further undergo RI for a period of 3 months
	324/34	RI for a period of one year and to pay a fine of Rs.1000/- and in default thereof, to further undergo RI for a period of 10 days
	323/34	RI for a period of six months.
Faqir Singh	307/34 IPC	RI for a period of five years and to pay a fine of Rs.10,000/- and in default thereof, to further undergo RI for a period of 3 months
	324/34	RI for a period of one year and to pay a fine of Rs.1000/- and in default thereof, to further undergo RI for a period of 10 days
	323/34	RI for a period of six months.

Brief facts of the case, as noticed by the learned Additional Sessions Judge in para 2 are that complainant Madha Singh suffered a statement to the effect that on 18.06.2014 at about 7.00 AM., demarcation of their land along with the land of Faqir Singh, uncle of the complainant from relation, was being conducted in presence of respectables of the village. In the meantime, Faqir Singh raised a lalkara to teach a lesson to the complainant party for getting the land demarcated. The accused namely Daljit Singh son of Faqir Singh took the son of complainant namely Bhajanpreet Singh in his lap and Kuldeep Kaur, wife of Daljit Singh, held him from hairs. Thereafter Sukhwinder Singh @ Sukha son of Daljit Singh gave a 'kirch' blow on the left side of his lungs, as a result he fell down.

Thereafter, Sukhwinder Singh gave another 'kirch' blow upon him. On raising alarm by the respectables of the village, all the assailants ran away from the place of occurrence. The injured was taken to Civil Hospital, Kapurthala, where he was operated upon for the injury in the abdomen.

On the basis of statement of the complainant, a case was registered against the accused. The trial court, after framing of charges, recorded the prosecution evidence and acquitted Kuldip Kaur but at the same time convicted the appellants Daljit Singh and Faqir Singh.

Hence, the present appeal.

Whereas CRA-S-493-SB-2016 is arising out of a cross-case in which Dilpreet Singh, Bhajanpreet Singh and Madha Singh have been convicted under Sections 325, 323, 34 IPC and sentenced to the period of 2 years. This cross-case was registered on the statement of Daljit Singh-appellant No.1 in CRA-S-358-SB-2016.

Now the parties claim that they have entered into a settlement dated 12.03.2019 with the intervention of some respectable persons and relatives. It is pertinent to mention here that in the connected appeal, both the parties have tendered their affidavits, certifying that they have compromised the matter. Both the parties are related to each other. The offences alleged are not affecting the public at large. It is arising from a private dispute between the parties.

Learned counsel for the appellants has relied upon a judgment of Hon'ble the Supreme Court in the case of ***Ishwar Singh Vs State of Madhya Pradesh, 2009 (1) RCR (Crl.) 1***, wherein it has been held that in case of settlement during the pendency of an appeal, since the offence under Section 307 IPC is not compoundable, hence, the sentence can be reduced

to the period already undergone. Similar is the view taken by this Court in **Raj Kumar Vs State of Haryana, 2016 (2) RCR (Crl.) 693.**

Learned counsel for the first informant has submitted that the parties have entered into a settlement and he has no objection if the sentence awarded by the learned trial court to the appellants is reduced to the period already undergone by them.

After hearing the learned counsel for the parties and going through record of the case, coupled with the genuine compromise arrived at between the parties, this Court is of the considered view that no useful purpose would be served in sending the appellant back to jail for undergoing the remaining period of the sentence.

In view of the above, both the appeals are partly allowed. The judgments of conviction dated 21.01.2016 are upheld, however sentence of 5 years' rigorous imprisonment in one case and 2 years' rigorous imprisonment in another connected case awarded by the learned trial court are reduced to the period already undergone. Fine imposed on the appellants is upheld. The appellants are granted two months' time to deposit the amount of fine with the concerned court, failing which this appeal shall stand dismissed without any further orders.

Pending application(s), if any, shall also stand disposed of, in terms thereof.

30.08.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No