

**CRM-A-1412-MA-2015 and
CRA-S-270-SB-2015**

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

217 (2 cases)

Date of Decision : 17.7.2019

CRM-A-1412-MA-2015

State of Haryana

..... Appellant

Versus

Gurjinder Singh and others

..... Respondents

CRA-S-270-SB-2015

Gurjinder Singh and others

..... Appellants

Versus

State of Haryana

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
: HON'BLE MR.JUSTICE HARNARESH SINGH GILL**

**Present : Mr. Aman Pal, Advocate
for the appellants in CRA-S-270-SB-2015
for the respondents in CRM-A-1412-MA-2015 .**

Ms. Palika Monga, DAG, Haryana.

**Mr. Harmanjeet Singh, Advocate and
Mr. Pawan Rao, Advocate
for respondents No. 2 to 4 in in CRA-S-270-SB-2015.**

AJAY TEWARI, J. (Oral)

1. Vide this common order, we shall decide above said two appeals as they arise from the same incident.

2. **CRM-26665-2015 in CRM-A-1412-MA-2015**

For the reasons recorded, the application is allowed. Delay of 140 days in filing the appeal is condoned.

3. **CRA-S-270-SB-2015** has been filed by the appellants challenging the conviction and sentencing them to undergo 2 years each under Section 148/149 IPC, 3 years each under Sections 325 and 149 IPC and 1 year each under Section 506 IPC alongwith fine whereas **CRM-A-1412-MA-2015** has been filed by the State with a prayer that the conviction should be recorded under Section 307 IPC also. The parties would be referred to by their status in the appeal challenging conviction.

4. Brief facts of the case are that on 13.4.2012 an altercation was taken place between the complainant-Avtar Singh alias Goru and Balbir alias Bobby and Gurjinder Singh alias Bunti. On 14.4.2012 when the complainant was present at his liquor vend Madhu Cinema alongwith Mehtab Singh and Jugal Kishore, the appellants alongwith some boys attacked upon them and caused injuries to the complainant and his partners. The injuries caused to complainant-Avtar Singh were as follows :-

*“1. 4”x1”x1” **lacerated wound on left cheek**, patient was advised xray and surgeon opinion.*

*2. 2”x0.5”x0.5” **lacerated wound on fore head**, patient was advised xray and surgeon opinion*

*3. 1”x1” **abrasion on forehead on left side**, patient*

was advised xray and surgeon opinion.

*4. **Swelling around right eye**, Patient was advised x-ray skull and surgeon and eye surgeon opinion.*

*5. **3"x2" bruise on back on left upper back on auscultation chest and back NAD**, Patient was advised xray and surgeon opinion.*

*6. **Multiple abrasions and bruises of various size and shape on left shoulder and arm**, patient was advised xray and ortho surgeon opinion*

*7. **1"x1" abrasion on chest on right side on auscultation Chest and back NAD**, patient was advised xray and surgeon opinion*

*8. **4"x0.5 abrasion on abdomen on left lumbar region abdomen soft and B5 present**, patient was advised xray abdomen, USG abdomen and surgeon opinion.*

*9. **Multiple abrasion and bruises of various size and shape on left thigh**, patient was advised x-ray and ortho surgeon opinion.*

*10. **Multiple abrasion and bruise of different size and shape on left leg lamp 0.5"x0.5"x0.5" lacerated wound on ant Side of left leg**, patient was advised x-ray and ortho surgeon opinion.*

*11. **Multiple abrasions and bruises of different size and shape on right leg**. There was no restriction of movements.*

*12. **1.5"x1" abrasion on right thigh** there was no restriction of movements."*

5. The injuries caused to Jugal Kishore who was the partner of complainant-Avtar Singh were as follows:-

*"1. **2"x0.5"x0.5" lacerated** wound on scalp. Patient was advised x-ray & surgeon opinion.*

*2. **3"x1" bruise on right knee**, patient was advised x-ray and ortho surgeon opinion"*

6. The complainant was shifted to the government hospital

where first aid was administered and stitches were also applied. Thereafter, the complainant also contacted private doctor PW-11 i.e. Dr. Rupinder Singh. PW-11 characterized injury at point A in his opinion (Ex. PW11/X) as life threatening regarding the complainant-Avtar Singh. However, subsequently the appellants raise a suspicion regarding correctness of that medical opinion and the case was referred to the Medical Board of the government doctors, in whose opinion the injury No.2 was only grievous. It is against the background granted that both the appeals have been filed.

7. Learned counsel for the appellants has argued that actually during the trial of the case the matter had been compromised but the FIR could not be quashed in view of the invocation of the Section 307 IPC. Today, Mr. Pawan Rao, Advocate has entered appearance on behalf of the complainant and has reiterated that the parties have settled their dispute. The situation thus is that if we come to the conclusion that appeal of the State has to be dismissed the issue of the compromise can be looked at but in case the appeal of the State is allowed and the conviction is altered under Section 307 IPC then the appeal of the appellant should have to be dismissed.

8. Learned Deputy Advocate General has asserted that the fact that in this case the situs of the injury is very important. As per her, the appellant No.2 had given blow on the forehead of the complainant and this fact would lead to the conclusion that he had intention to kill him. On the other hand, learned counsel for the appellants has argued that as per the complainant, 8 people had attacked upon them. Had there been intention to kill they could have easily done so. Moreover, the weapon in

the hand of the appellant No.2 was 'gandasi' and if there had been any intention to kill he could have used the sharp edge. He has further argued that this was the fact which weighed with the trial Court. He has also attacked the testimony of PW-11 by saying that the Trial Court had also noticed that he was a private doctor and that he had no occasion to see the fresh wounds and examined the complainant only after the wounds had been sutured. He has also drawn the attention of this Court to the testimony of the government doctor who first examined the complainant as well as the Board of doctors to whom the matter was referred.

9. In our considered opinion, the findings of the trial Court cannot be interfered with. Had the appellants and their accomplices intended to kill the complainant they could have done so. The nature of the injuries does not reveal any such intention. In the circumstances, ***CRM-A-1412-MA-2015*** is dismissed.

10. Coming to the appeal filed by the appellants, it may be noticed that the matter has been compromised even during the trial. However, since they have been convicted we deny the prayer to acquit them and dismiss the appeal against conviction. However, the sentence of Gurjinder Singh, Avtar Singh, Maninder Singh, Gurpreet Singh is reduced to that they have already undergone and the sentence of the Balbir Singh is reduced to seven months.

11 Let Balbir Singh-appellant No.2 now surrender to serve the remaining period of sentence.

12. Appeal bearing No. ***CRA-S-270-SB-2015*** stands disposed of.

13. Since the main cases have been decided, the pending criminal miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

17.7.2019
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Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No