

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

CRA-S-717-SB of 2002 (O&M)

Reserved on : May 06, 2019

Date of Decision: May 24, 2019

Jagdish and Ors.

...Appellant

Versus

State of Haryana

...Respondent

AND

CRA-D-12-DBA of 2003 (O&M)

State of Haryana

...Appellant

Versus

Brij Narain and Ors.

...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr. T.S Sangha, Sr. Advocate with
Mr. Narinder Singh the appellants.

Mr. Vishal Garg, Additional AG, Haryana.

Mr. Deepender Singh, Advocate and
Mr. Ram Krishan Rana, Advocate for the complainant.

HARINDER SINGH SIDHU, J.

Since common questions of law and facts are involved in the
aforesaid appeals these are taken up together and disposed off by a common
judgment.

2. Criminal Appeal No. CRA-S-717-SB-2002 has been filed by the
appellants against their conviction and sentence vide judgment and order
dated 15.04.2002 of the learned Additional Sessions Judge – Fast Track

Court-II, Faridabad in Sessions case No.60 of 1995 whereby they were charged with and tried for offences punishable under Sections 148, 149, 323, 325, 307, 395, 397 and 302 of the Indian Penal Code (in short 'IPC') along with Brij Narain, Shibu and Keshav. The appellants were convicted and sentenced as under:-

Name of Convict-Appellant	Sentence
Jagdish	Rigorous imprisonment for a period of seven years under Section 304 IPC (Part-II), for one year under Section 148 IPC, six months u/s 323/149 and for three years and a fine of Rs.1000/- u/s 325/149 IPC. In default of payment fine, to undergo further RI for three months.
Dharambir, Vijender, Chet Ram, Kishor, Paras Ram, Sunder, Balbir, Deva and Prem Chand	Imprisonment for a period of one year each u/s 148 IPC, six months each u/s 323/149 and for three years each and a fine of Rs.1000/- u/s 325/149 IPC. In default of payment fine, to undergo further RI for three months, each.

The sentences were ordered to run concurrently. Brij Narain, Shibu and Keshav were acquitted.

3. Criminal Appeal No.CRA-D-12-DBA-2003 has been filed by the State of Haryana for enhancement of sentence of the convicts as also challenging the acquittal of Brij Narain, Shibu and Keshav.

4. The case of the prosecution in a nutshell is that on 5.6.1995 on receipt of information about a quarrel at village Khambi SI/SHO Police Station Hassanpur reached General Hospital Palwal where he recorded the statement of Sri Ram s/o Shri Krishna. Sri Ram stated that he is a retired teacher. Today i.e, 5.6.1995 at 12.00 noon Bhoo Dutt son of Shri Khem Chand had come to his house and asked him (Sri Ram) to accompany him

to the Chaupal. Bhoo Dutt had taken 10 killas of land on *patta* from the Sarpanch of the village for Rs.60,500/-. He had already deposited Rs.15,000/- with the Secretary. Sri Ram accompanied by Bhoo Dutt reached the Chaupal where Block Development Officer, Panchayat Secretary and Sarpanch Smt.Geeta Devi were present. He was carrying Rs. 45,500/- with him. While he was handing over the money to the Sarpanch on behalf of Bhoo Dutt the accused namely Jagdish, Dharambir, Bijender, Chet Ram, Kishor, Paras Ram, Sunder, Balbir, Shibu, Deva, Prem Chand and Keshav came there armed with *Jellies*, *Lathies*, axes and iron rods and attacked them. Jagdish hit him (Sri Ram) with a *Jelly* on his head. Chet Ram gave an axe blow from its blunt side on his left leg. Prem Chand gave a *lathi* blow on his right leg. The accused also inflicted injuries on Ram Kishan, Ramesh, Ghanshyam, Ram Kumar, Laxman and Nathi Lal. Jai Kishor, Guru Dutt and Hari Singh Members of the Panchayat who were present at the spot rescued them otherwise they would have been killed. The reason for the attack was that the land had earlier been given on *patta* for Rs.34,200/- to Chet Ram. The *patta* was got cancelled by Ram Kishan by moving a complaint before the SDM. Sri Ram stated that before the attack he had given some money to the Panchayat Secretary. Some money was still with him. He did not know if the money was lost.

5. On the basis of the statement Ex.PC formal FIR Ex.PC/2 was recorded under Sections 148, 149, 323, 325, 307, 395, 397 and 307 IPC at Police Station Hassanpur. Ram Kishan died on 9.6.1995. Thereafter, offence under Section 302 IPC was also added.

6. The prosecution examined number of witnesses in its support.

The statement of the accused under Section 313 Cr.P.C. was recorded.

They denied the allegations levelled against them. They stated that they were innocent. The occurrence did not take place in the manner alleged by the prosecution. As a matter of fact the complainant party was the aggressor. Chet Ram was waylaid by 12 persons of the complainant party, namely, Ghanshyam, Raghunandan, Lachhi Ram, Ram Kumar, Ram Dutt, Ramesh, Deve Sobha Ram, Sri Ram, Moola, Bhu Dutt and Rishi and when Chet Ram raised an alarm, then Vijender, Shibbu, Balbir, Kishor, Paras Ram and one Teeka Ram also came there. The complainant party first caused injuries to six persons namely Chet Ram, Vijender, Shibbu, Balbir, Kishor Paras Ram and Teeka Ram. In their right of private defence they had to retaliate and caused injuries to the members of the complainant party. They further stated that a cross-case was also pending against the aforesaid 12 members of the complainant party. They also led evidence in defence.

7. The appellants were convicted and sentenced as referred to above. Hence, this appeal.

8. We have heard learned counsel for the parties and have gone through the judgment and record.

9. PW1 Dr. A.K. Sharma, CMO Safdurjang Hospital, New Delhi stated that on 9.6.1995, he had conducted postmortem examination on the dead body of Ram Kishan s/o Ram Dayal, aged 55 years and found the following injuries on his person :

“1. Contusion 5x4 cm. on the right frontal region.

2. Contusion 3x4 cm. on the left frontal region.

3. Both the eyes were black.

4. Scabbed abrasion 8x8 cm. on the middle back of the left side of the chest.

5. Small abrasion on the left knee joint.

6. Small abrasion on the left ankle.

7. There were scabs on injuries No.5 & 6.”

10. On internal examination of the scalp thick effusion of blood was there. The skull was depressed and commuted fracture on either side of fronto parietal region. There was thick subdural haematoma all over the both cerebral hemispheres of brain. There was contusion haematoma on both frontal basis. Duration between the postmortem examination and death was 21 hours. The cause of death was head injury caused by blunt force impact. Injuries Nos.1 & 2 were individually and collectively sufficient to cause death in ordinary course.

11. PW5 Dr. Surjit Mehra, SMO General Hospital, Palwal stated that on 6.6.1995, he had radiologically examined Sri Ram s/o Kishan Lal. As per his X-ray report Ex. PD, he found fracture of left patela.

12. On the same day, he had radiologically examined Ram Kumar s/o Net Ram. As per X-ray report Ex. PE he found fracture of right ulna with fractures of 4th and 5th metacarpals in the right hand.

13. He had also radiologically examined Nathi Lal on the same day. As per his report Ex.PF he found fracture of right fibula.

14. Ghanshayam was radiologically examined on the same day. As per his report Ex.PG he found fracture of right patela.

15. On the same day he radiologically examined Laxman. As per X-ray report Ex.PH he found fracture of 5th metacarpal right hand and also fracture of right patela.

16. PW8 Dr. Jagmohan Mittal, Medical Officer, General Hospital, Palwal stated that on 5.6.1995, he had medico legally examined Sri Ram.

As per report Ex.P1 he found the following injuries on his person:

- “1. A lacerated wound 5.5x.7 cm into scalp deep on the parietal region slightly on the right side of mid line with fresh bleeding.*
- 2. A lacerated wound .75x.25 cm into muscle deep on the left knee joint.*
- 3. A lacerated wound 1.5x1/3 cm into bone deep with diffused swelling on the lower 1/3rd of the left leg.*
- 4. A lacerated wound 1x1/3 cm into skin deep on the middle of 1/3rd of right leg.*
- 5. Diffused swelling with red bruise on it measuring 12x3 cm on the right scapular region.*
- 6. Abrasion 2 cmx3/4 cm with diffused swelling on the left scapular region.”*

Injury No.3 was declared grievous. Injury No.4 was simple. X-ray was advised in respect of the remaining injuries. All the injuries were caused by blunt weapon with a probable duration of six hours.

17. On the same day he medico-legally examined Ram Kishan. As per his report Ex.PJ he found the following injuries on his person:-

- “1. Swelling 4x4 cm on the left side of frontal region near hair line. There was bleeding from the nose.*
- 2. Swelling 4x3 cm on the right frontal region near hair line.*
- 3. Red bruise 10x2 ½ cm on the left knee abteriorly placed with swelling.*
- 4. Superficial abrasion 1x1 cm on the right thigh anteriorly on the lower 1/3rd.”*

Injury No.4 was declared simple while rest of the injuries were kept under X-ray observation. All these injuries were caused with blunt weapon with a probable duration of six hours.

Ex.PK he found the following injuries on his person:-

- “1. Lacerated wound 4x½ cm into scalp deep on the right fronto parietal region.*
- 2. Diffused swelling on the right knee joint anteriorly placed.*
- 3. Red bruise 8x2.5 cm on the upper 1/3rd of right arm posteriorly.*
- 4. Slight swelling on the back of the neck with red colouration on it.”*

Injury No.3 was simple while rest of the injuries were kept under X-ray observation. All the injuries were caused by blunt weapon.

19. The medico-legal examination of Ramesh s/o Ram Kishan the same day disclosed following injuries:

- “1. Lacerated wound 4x5 cm into ¾ cm into scalp deep on the right parietal region.*
- 2. Red bruise 7x3 cm on the upper 1/3rd of the left arm anteriorly placed.*
- 3. Diffused swelling on the right scapular region upper part.*
- 4. Red bruise 15x2 cm on the right thigh on the upper 1/3rd posteriorly.”*

Injuries No.3 & 4 were declared simple in nature. The rest were kept under X-ray observation. All the injuries were found to have been caused by blunt weapons with a probable duration of 6 hours.

20. On medico-legal examination of Ram Kumar the following injuries were found :

- “1. A lacerated wound 8x2.5 cm into scalp deep on the left occipital-parietal region.*
- 2. A red bruise with swelling on the lower 1/3rd of the left fore-arm posteriorly on the medical aspect.*
- 3. Diffused swelling on the lower ½ of the right fore-arm*

posteriorly with lacerated wound 1 cm x 1/3 cm into muscle deep.

4. Diffused swelling on right hand posteriorly.

5. Diffused swelling on right foot.

6. Diffused swelling on right scapular region.”

Injury No.6 was declared simple in nature. The rest were kept under x-ray observation. All the injuries were caused by blunt weapons within a probable duration of six hours.

21. He also medico-legally examined Nathi Lal. As per his report EX.PN he found the following injuries on his person:-

“1. A diffused swelling on the upper 1/3rd of the right leg.

2. Abrasion 1 x 1/2 cm on the right scapular region, according to him both the injuries were caused by blunt weapon, within a probable duration of 12 hours. Injury No.2 was declared simple while injury No.1 was kept under x-ray observation.”

22. The medico-legal examination of Laxman as per his report Ex. PO revealed the following injuries:-

“1. Abrasion 3/4 cm x 1/3 cm on the left parietal region.

2. Diffused swelling with red bruise with abrasion on the right shoulder on the upper part.

3. Red bruise 4 x 2 cm on left scapular region.

4. Diffused swelling on the right hand posteriorly placed.

5. Slight swelling on the right buttock with redness.

6. Diffused swelling on the right knee joint anteriorly placed.

7. Diffused swelling on the upper 1/3rd of right leg laterally placed.

8. Diffused swelling on right leg laterally placed.”

Injury Nos.1, 3 & 5 were declared simple in nature. The rest were kept under x-ray observation. All the injuries were caused by blunt

weapon within a probable duration of six hours.

23. He stated that had sent ruqa Ex.PP to Police Station Hassanpur intimating about the admission of the injured in the hospital. On the applications of the police, he submitted opinion Ex.PO, PR, PS that Ramesh, Nathi and Ghanshyam respectively were fit to make statements. Similar opinions Ex.PU, PV and PW were given regarding Laxman, Ram Kumar and Sri Ram being fit for making statement. He submitted his opinion Ex.PT about Ram Kishan being not fit for making statement.

24. PW2 Sri Ram stated that he is a retired teacher. Bhoo Dutt s/o Khem Chand had taken 10 Killas on lease from Panchayat of village Khambi. On 5.6.1995 at about 12.00 noon Bhoo Dutt came to him and asked him to accompany him to Chaupal where he had to make the balance payment of Rs.45,500/-. The Block Development and Panchayat Officer, Panchayat Secretary and Sarpanch Smt.Geeta Devi were present there. As he was handing over the amount of Rs.45,500/- on behalf of Bhoo Dutt to the Sarpanch Smt.Geeta Devi, the 13 accused namely Brij Narain, Jagdish, Dharambir, Bijender, Chet Ram, Kishor, Paras Ram, Sunder, Balbir, Shibu, Deva, Prem Chand and Keshav came there. They were armed with Jellies, Lathies, axes and Sariyas (rods). They first attacked Ram Kishan who was present there for refund of the security amount. Jagdish inflicted a Jelly blow on his head and another on his right knee. After Ram Kishan fell down Sri Ram was attacked by the accused. Jagdish gave a jelly blow on his head. Chet Ram gave an axe blow from the blunt side on his left leg. Prem Chand gave a lathi blow on his right leg. He also fell down. The accused also gave injuries to Ram Kishan, Ramesh, Ghanshyam, Ram Kumar,

Kishor and Hari Singh, Members Panchayat who rescued them from the clutches of the accused. The reason for the incident was that the land had earlier been taken on lease by Chet Ram for a sum of Rs.34,200/-. The said Patta was got cancelled by Ram Kishan, etc. by presenting a complaint before the SDM. The statement Ex.PC was got recorded by him before the Police in Palwal Hospital on the same day at about 7.00-9.00 PM.

25. PW3 Ghanshyam son of Ram Kishan supported the version of Sri Ram. He stated that on 5.6.1995 at about 12.00 noon he, his father Ram Kishan, teacher Sri Ram, Laxman, Ram Kumar and Nathi Ram were present at the Chaupal. Jai Kishor, Guru Dutt and Hari Singh had also come there. Geeta Devi Sarpanch was also present. His brother Ramesh was also there. The SDM had cancelled the lease deed in favour of Chet Ram accused. The new lease deed was executed in favour of Bhoo Dutt who had come there for paying the lease money. At that time all the thirteen accused came there armed with lathies, axes and jellies. First of all Jagdish attacked his father Ram Kishan by giving a jelly blow lathiwise on his head and another on his right leg. He fell down. Then Jagdish caused injuries on the head of Ramesh. Jagdish gave a lathi blow on his (Ghanshyam's) head and another on his back. The accused also gave injuries to Ghanshyam, Ram Kumar, Laxman, Nathi Lal and Sri Ram with their respective weapons. He (Ghanshyam) was given a lathi blow on his right arm by Sunder. Chet Ram also gave a blow by reverse side of the axe on his right knee. They were rescued by Jai Kishor, Guru Dutt and Hari Singh. His (Ghanshyam's) father succumbed to the injuries on 8.6.1995. Jagdish also snatched the bag containing some of the lease money after Sri Ram had fallen down. Deva,

Chet Ram and Paras Ram took away the said money.

26. PW6 Ram Kumar s/o Net Ram stated that on 5.6.1995 Patta of Panchayat land was to be released in the choupal. The BDO, Panchayat Secretary and Sarpanch Smt.Geeta Devi were present there. Patta was released in the name of Bhoo Dutt. When Sri Ram teacher was handing over the amount of patta on behalf of Bhoo Dutt the 13 accused namely came there armed with jellies, lathies, sariyas and axes. Jagdish inflicted a jelly blow on the head of Ram Kishan lathiwise. He gave another blow on his right knee. After Ram Kishan had fallen down Ramesh and Ghanshyam attempted to rescue him. The accused persons then caused them injuries. Sri Ram was also inflicted injuries. Brij Narain gave a lathi blow on his (Ram Kumar's) right arm . Balbir gave a lathi blow on his right leg and Sunder gave a lathi blow on his head. Laxman and Nathi were also caused injuries by the accused persons. Some amount had been handed over by Sri Ram as patta money. The balance amount was taken away by accused Paras Ram.

27. PW7 Laxman also deposed on similar lines stating that he was present in the Choupal on 5.6.1995 at about 12.00 noon where patta of Panchayat land was to be released. The accused came and inflicted injuries to the complainant party.

28. PW9 ASI Rohtas Singh stated that in pursuance of disclosure statement Ex.PX made by accused Kesav Dev in the presence of HC Ram Prashad and Constable Jagdish Prashad a lathi was recovered from him which he had kept concealed in the 'Bonga' (heap) of fodder. It was seized vide memo Ex.PX/1. He further stated that in pursuance of disclosure statement Ex.PY made by accused Prem Chand a lathi kept concealed in his

fields was recovered and seized vide memo Ex.PY/1.

29. PW11 Puran Chand, Sub Inspector stated that on 5.6.1995 he was posted in Police Station Hassanpur. On receipt of information on wireless that some altercation had taken place in village Khambi he reached there. He learnt that the injured had been taken to General Hospital Palwal. He then went to General Hospital Palwal. After obtaining opinion of the doctor regarding fitness of Sri Ram he recorded his statement Ex.PC. He also recorded statements of other injured namely Ramesh, Nathi Lal, Ghanshyam, Ram Kishan, Laxman and Ram Kumar. The statement of Ram Kishan could not be recorded as he was not declared fit to make a statement. He then went to village Khambi and prepared rough site plan Ex.PZ. He recorded statements of Guru Dutt and Hari Singh. All the accused except Prem Chand and Kesav Dev were arrested by him on 6.6.1995 from village Khambi. Lathi produced by accused Shibbu was seized vide memo Ex.PAA. The lathies produced by accused Kishor, Balbir, Paras Ram were seized under memos Ex.PBB, Ex.PCC and Ex.PDD respectively. Jelly produced by accused Jagdish was taken into possession vide memo Ex.PEE, axe produced by Chet Ram vide memo Ex.PFF and lathi produced by accused Dharambir vide memo Ex.PGG. Accused Prem Chand and Kesav Dev were arrested by him on 9.6.1995.

30. PW Gian Chand, Secretary Panchayat was given up as having been won over by the accused. PWs Ramesh, Nathi, HC Ram Parshad, Guru Dutt, Hari Singh, Jai Kishor, Smt.Geeta Devi Sarpanch, Constable Jagdish and BDO Hodal were given up as being unnecessary.

31. DW1 Dr.S.M.Mehra stated that on 8.6.1995 he had radiologically examined Chet Ram and noticed fracture on fourth metacarpal

32. DW2 Dr. Allauddin Ahmad stated that on 5.6.1995 he had medico-legally examined Shiv Charan, Teeka Ram, Chet Ram, Krishan Lal, Bijender, Paras Ram and Balbir. He found the following injury on the person of Shiv Charan:

“A lacerated wound 1.05 x 0.4 cm on the back of the scalp 3 cm from occipital region with no bleeding.”

The injury was found to have been caused by a blunt weapon and declared simple in nature.

33. Teeka Ram had the following injury :-

“A lacerated wound 5 x 1.5 x 0.5 cm over the lower part of the back of the right leg.”

This injury was found to have been caused by blunt weapon and was kept under x-ray observation.

34. Chet Ram had the following injury :-

“Diffused tender swelling over medial half of right dorsum. Movements of the joints of the finger were restricted.”

The injury was found to have been caused by blunt weapon and kept under x-ray observation.

35. Krishan Lal had the following injuries :-

“1. Lacerated wound 6 x 0.5 x 0.3 cm on the right side of the front of the scalp with no fresh bleeding.

2. Lacerated wound 0.7 x 0.3 x 0.2 cm on the right temporal region with no fresh bleeding.

3. Complained of pain on the back of the root of the right thumb without any external marks of injuries. Movements at the joint were normal.”

According to him these injuries were found to have been caused by blunt weapon and declared simple in nature.

36. The following injuries were found on the person of Bijender :-

- “1. A lacerated wound 2.5 x 0.5 x 0.4 cm on the right scalp 6.5 cm above the mid point of the right eye-brow.*
- 2. Lacerated wound 0.5 x 0.2 x 0.2 cm over mid point of forehead.*
- 3. Superficial abrasion 0.3 x 0.2 cm over lateral part of the back of the right hand.*
- 4. Complained of pain over the back of the right fore-arm, back of left elbow without any external marks of injuries.”*

All these injuries were found to have been caused by blunt weapon and were declared simple in nature.

37. The following injuries were found on the person of Paras Ram :-

- “1. Superficial abrasion 1 x 0.2 cm over the top of the left shoulder joint. Movements were normal.*
- 2. Complained of pain over the back of the root of the left index finger with no external marks of injuries.”*

These injuries were found to have been caused by blunt weapon and declared simple in nature.

38. Balbir had the following injuries :-

- “1. Lacerated wound 0.5 x 0.2 x 0.2 cm at the root of the back of the left thumb. Movements were normal.*
- 2. Reddish contusion 1.5 x 1.5 cm on the upper and middle end of the upper border of left scapula.”*

These injuries were found to have been caused by blunt weapon and were declared simple in nature.

39. In his cross-examination DW2 admitted that most of the aforesaid injuries were superficial in nature. He opined that the fracture of metacarpal bone could be suffered in an accidental fall also.

40. From the above it is clear that the dispute pertained to the *patta*

Chet Ram. On a complaint made by Ram Kishan the SDM ordered the cancellation of the lease. Thereafter, the land was leased in favour of Bhoo Dutt. Bhoo Dutt accompanied by Sri Ram had gone to the village Choupal to pay the balance amount of the lease money to the Sarpanch of the village Smt. Geeta Devi. The Block Development Officer Hodal, Sarpanch Smt. Geeta Devi, the Panchayat Secretary, some Members of Panchayat and others were present in the village Choupal. As Sri Ram was handing over the lease money to the village Sarpanch the accused variously armed with *Jelly*, axe, *lathies* and iron rods came there. Jagdish gave a Jelly blow lathiwise on the head of Ram Kishan and another blow on his right knee. Ram Kishan fell down. Thereafter, he was attacked by all the accused persons. Chet Ram gave an axe blow from the blunt side on the left leg of Sri Ram. He also gave another axe blow from the reverse side on the right knee of Ghanshyam. Prem Chand gave a lathi blow on the right leg of Sri Ram. Clearly, the motive was on the part of the accused as they wanted to prevent the complainants from taking the land on lease.

41. Taking note of the weapons with which the accused were armed and the manner of their use the learned Trial Court has rightly come to the conclusion that there was no common object to cause the death of any one. Chet Ram gave an axe blow from the blunt side on the left leg of Sri Ram. He also gave another axe blow from the reverse side on the right knee of Ghanshyam. Prem Chand gave a lathi blow on the right leg of Sri Ram. Though appellant Jagdish was armed with a Jelly he had used the same from reverse side while inflicting a blow on the head of Ram Kishan deceased. None of the other accused caused any other injury on the vital part of Ram

common object shared by the accused to cause the death of any member of the complainant party including of Ram Kishan. Their intention only appeared to be to inflict injuries and cause hindrance in the lease of land to Bhoo Dutt.

42. Though the intention of Jagdish also does not appear to have been to cause the death of Ram Kishan as he did not inflict injuries with the sharp pointed side of the jelly but used the jelly only as a lathi. However the blow was inflicted on the head of Ram Kishan which is a vital part of the body. As per the opinion of PW 1 Dr. A.K. Sharma the cause of death was due to head injury caused by blunt force impact. Injury No.1 and 2 individually and collectively were sufficient to cause death in the ordinary course. Appellant Jagdish had to be imputed with the knowledge that the injury inflicted by him on the head could cause the death of the victim. Hence, accused Jagdish was rightly convicted under Section 304 (Part-II) IPC.

43. The members of the complainant party had suffered grievous injuries including fractures. As per PW5 Dr. Surjit Mehra there was fracture of left Patela of Sri Ram, fracture of right ulna with fractures of 4th and 5th metacarpals in the right hand of Ram Kumar, fracture of right fibula of Nathi Ram, fracture of right patela of Ghanshyam. Laxman had suffered fracture of 5th metacarpal right hand and of right patela. As per PW8 Dr.Jagmohan Mittal one injury namely lacerated wound 1.5 x 1/3 cm on the left leg of Sri Ram was grievous in nature. Accordingly, offence under Section 323/149 IPC for causing simple injuries and under Section 325/149 IPC for causing grievous injury was held proved against the accused.

members of the accused party, there was bound to be retaliation from the complainants who were also present in a sizable number. The Ld. Trial Court rightly concluded that the incident had taken the shape of a free fight in which both the parties sustained injuries. The injuries sustained by the complainant party were grievous but the injuries on the accused were superfluous.

45. The name of accused Brij Narain was not mentioned in the FIR. Even as per the statement of PW 6 Ram Kumar he is alleged to have inflicted a lathi blow on his right arm only. No lathi was recovered by the police from the possession of Brij Narain. Two accused Shhibu and Keshav from whom a lathi each was alleged to have been recovered have not been attributed as having given any lathi blow to anyone. As no overt act had been attributed to these three accused, they were acquitted of the charges.

46. The charge under Sections 395, 397 IPC for snatching money from Sri Ram was held not proved and the accused were acquitted of the said charge.

47. The prosecution has proved the case against the appellants for the offences they have been convicted beyond reasonable doubt. There is no reason to interfere with the well considered judgment of the trial court. Accordingly there is no merit in their appeal (CRA-S-717-SB-2002) and the same is dismissed.

48. Appellants No.2 to 10 namely Dharambir, Vijender, Chet Ram, Kishor, Paras Ram, Sunder, Balbir, Deva and Prem Chand were granted bail for a period of one month by the Trial Court at the time of their conviction and sentence vide order dated 15.4.2002. Vide order dated 01.05.2002, the

Ram, Kishor, Paras Ram, Sunder, Balbir, Deva and Prem Chand was ordered to be suspended till the appeal is disposed of. Appellant No.1 Jagdish was granted bail on 11.12.2003. Accordingly, the police is directed to take the appellants into custody to undergo remaining sentence imposed by the trial Court vide judgment and order dated 15.04.2002. The appeal preferred by the State bearing CRA-D-12-DBA-2003 is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

May 24, 2019

gian

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No