

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

CRM-M No.51075 of 2018 (O&M)

Date of decision: 12.03.2019

Janak Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Bhupinder Banga, Advocate
for the petitioners.

Mr. M.S. Nagra, AAG, Punjab.

Mr. Imran Ali Ahmad, Advocate
for respondents No.2 to 4.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing of FIR No.185 dated 22.12.2010 (Annexure P1) registered under Sections 323, 324, 148, 149 of the Indian Penal Code (in short 'IPC') (Section 325 IPC added later) at Police Station Garhshankar, District Hoshiarpur, on the basis of the compromise (Annexure P4) and for setting-aside the judgment of conviction as well as the order of sentence dated 27.01.2017 passed by the trial Court vide which the petitioners were held guilty for offence punishable under Sections 323, 324, 325, 148, 149 IPC and they were sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs.1,000/- each and in default of payment of fine to further undergo simple imprisonment for a period of 15 days.

Brief facts of the case are that on 21.12.2010 SI Paramjit

Singh was present at Police Station Garhshankar where the MHC handed over him 03 MLRs pertaining to Rattan Singh, Gurdev Singh and Jhalman Singh. On this the Investigating Officer alongwith the police party went to Civil Hospital, Garhshankar, where he came to know that the injured have been referred to Civil Hospital, Hoshiarpur and thereafter, he forwarded an application to the doctor seeking opinion regarding fitness of the patients. The doctor opined that the patients are unfit to make statement. On the very next day, the Investigating Officer again alongwith the police party went to Civil Hospital, Hoshiarpur and forwarded a written letter to the doctor regarding fitness of the injured. The doctor made endorsement that the patients are fit to make statement. Rattan Singh, the complainant got recorded his statement that he is having agricultural land at village Purkhowal and Wheat crop has been sown there in the fields. On 21.12.2010 the complainant alongwith his son Gurdev Singh went to his field for giving tea to his son namely Jhalman Singh. Then at about 08:15 am, Janak Singh armed with Gandasi, Balraj Singh armed with Kulhari, Amit Rana s/o Janak Singh armed with Kirpal, Naresh Rani w/o Janak Singh armed with Danda, Raj Rani w/o Balraj Singh armed with Danda, Urmila Devi w/o Bajrang Singh was empty handed while raising lalkara came to the fields of the complainant. Then, Janak Singh gave a reverse Gandasi blow which hit on the right eye of the complainant. Naresh Rani gave two Danda blows which hit on the right bicep and on the back side of right hand of the complainant. Janak Singh gave a Gandasi blow on the head of the complainant with an intention to kill him. Thereafter, Balraj gave a Kulhari blow on the left

side of the head of the complainant with an intention to kill him. Thereafter Raj Rani w/o Balraj Singh gave a danda blow on the left hand of the complainant. When Gurdev Singh, son of the complainant came forward to save him then, Amit Rana s/o Janak Singh gave a Kirpan blow on his head. The wife of Bajrang Singh throw to brick bats on him which hit on his left ear and back of left arm. Then Janak Singh gave two blows of reverse side of Gandasi on Gurdev Singh which hit blow right knee and on the back of left leg. Thereafter, Jhalman Singh came forward to save his brother Gurdev Singh then Balraj Singh gave two blows of reverse Khuada on his head. Then Naresh Rani w/o Janak Singh gave two Danda blows on his head. Then w/o Bajrang Singh hit him with two brick bats which hit him on his back shoulder and on the back side of fingers of the hand. Then Janak Singh gave three reverse blows of Gandasi on Jhalman Singh which hit him on his head, left side of chest and right arm. Balwinder Singh s/o Jagtar Singh r/o village Bhajal came at the spot and rescue all of the victims from the clutches of the accused. The accused while raising lalkars left away from the spot with their weapons. Thereafter the victims were got admitted to the Civil Hospital, Mahilpur from where all of them were referred to Civil Hospital, Hoshiarpur due to severe condition. Thereafter, the ruqa was sent through PHG Jaspal Singh for registration of the case. After registration of the case the investigation was conducted, site plan was prepared and statement of witnesses were recorded and the report under Section 173 Cr.P.C. was submitted before the trial Court.

On presentation of the challan, charge under Sections 324, 323, 325, 148 and 149 IPC was framed against the accused, to which

they did not plead guilty and claimed trial.

The prosecution examined Jhalman Singh as PW1, Rattan Singh, the complainant as PW2, Gurdev Singh as PW3, Balwinder Singh @ Dalwinder Singh as PW4, SI Paramjit Singh as PW5, Dr. Navroop Kaur, Medical Officer as PW6, Mohinder Singh, Inspector (retired) as PW7, Dr. Hardeep Singh as PW8, Inspector Surinder Kumar as PW9, C. Raman Kataria as PW10, Gagandeep as PW11 and closed the evidence.

After the conclusion of the evidence of prosecution, the statement of petitioners/accused was recorded under Section 313 Cr.P.C. and the entire incriminating evidence, which the prosecution produced against him, was put to him to tender explanation for the same. The petitioners/accused denied the allegation of the prosecution and pleaded that they have been falsely implicated in the case. However, in defence evidence, the petitioners/accused have tendered into evidence, certified copy of the judgment dated 23.03.2015 as Ex.DA.

The trial Court, after hearing learned counsel for the parties and after appreciating the evidence on record, convicted and sentenced the petitioners/accused under Sections 323, 324, 325, 148 and 149 IPC.

Feeling dissatisfied with the judgment of conviction and the order of sentence dated 27.01.2017, the petitioners have preferred an appeal before the Lower Appellate Court, which is now pending before the Lower Appellate Court and during the pendency of the appeal, a compromise has been effected between the parties.

Vide order dated 20.11.2018 passed by this Court, the parties were directed to appear before the Lower Appellate Court for getting their statements recorded with regard to validity of the compromise.

The Lower Appellate Court has submitted a report that the compromise (Annexure P4) is effected between the parties.

As per the statement of Jhalman Singh, the original complainant namely Rattan Singh has died on 04.05.2017 and Gurdev Singh has died on 22.12.2015. It is further stated that the parties have entered into a valid compromise (Annexure P4), which is in the larger interest of the parties as they are in the brotherhood.

Similar statement of Didar Singh was recorded, who has also supported the compromise (Annexure P4).

Another victim namely Balwinder @ Dalwinder Singh has also stated that he was a witness of the occurrence and the parties have entered into a valid and legal compromise.

Similar statement was made by the accused persons in support of the compromise.

In “*Sube Singh and another vs State of Haryana and another*”, 2013 (4) RCR (Criminal) 102, a Division Bench of this Court has held that even after conviction, if the parties have settled the dispute amicably and have decided to live in peace and harmony, this Court, in exercise of powers under Section 482 Cr.P.C, can compound the offence.

Considering the fact that the it is a case of version and cross-version, in which the cross-version was cancelled by the police

and later on, during the pendency of the first appeal, the matter has been compromised between the parties and in view of the law laid down by the Division Bench of this Court in *Sube Singh's case (supra)* and also in view of the fact that the parties have decided to bury their *inter se* dispute and further decided to live in peace and also in view of the report dated 18.01.2019 passed by the Additional Sessions Judge, Hoshiarpur, the present petition is *partly allowed* while upholding the judgment of conviction and the sentence awarded to the petitioners is reduced to the period already undergone by them.

This will be, however, subject to payment of costs of **Rs.10,000/-** as litigation expenses to be deposited with the District Legal Services Authority, Hoshiarpur.

(ARVIND SINGH SANGWAN)
JUDGE

12.03.2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No