

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

1. CRA-S-541-SB-2001(O&M)

Balwant Singh and another

..... Appellants

Versus

State of Punjab

..... Respondent

2. CRA-1072-SBA-2001(O&M)

Mohinder Singh

.....Appellant

Versus

Harcharan Singh and others

.....Respondents

Date of decision :-4.5.2022

CORAM : HON'BLE MR.JUSTICE H.S. MADAAN

Present : Mr.APS Mann, Advocate
for the appellant(s) in both appeals.

Mr.Anmol Singh Sandhu, AAG, Punjab.

Mr.S.S. Swaich, Advocate
for the respondents No.2, 5 and 7 in
CRA-1072-SBA-2001.

Mr.S.S. Rangi, Advocate
for the respondents No.3,4,6 and 8 in
CRA-1072-SBA-2001.

H.S. MADAAN, J.

Vide this judgment, I propose to dispose of two appeals i.e. **CRA-S-541-SB-2001** filed by appellants Balwant Singh and Mohinder Singh and **CRA-1072-SBA-2001** filed by appellant Mohinder Singh.

CRA-S-541-SB-2001 has been filed against the judgment dated 12.4.2001 passed by Additional Sessions Judge, Patiala in Sessions Case No.28-T of 20.3.99/18.10.93, vide which accused Balwant Singh and Mohinder Singh, who are appellants before this Court in this appeal were convicted and sentenced as under:

Mohinder Singh	Under Section 324 IPC	To undergo rigorous imprisonment for 2 years and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for two months.
Balwant Singh	Under Section 324/34 IPC	To undergo rigorous imprisonment for 1-1/2 years and to pay a fine of Rs.2,000/- and in default of payment of fine to further undergo rigorous imprisonment for two months.

CRA-1072-SBA-2001 has been filed by appellant Mohinder Singh, who is complainant in Sessions Case No.36-T/99 of 24.7.1993, against the judgment dated 12.4.2001 passed by Additional Sessions Judge, Patiala vide which the accused were acquitted.

CRA-S-541-SB-2001

Briefly stated, the facts of the case as per prosecution version are that on 26.6.1993 at about 7:00 p.m. complainant – Kulwant Singh along with his brother Harcharan Singh and some other residents of village Badungar were levelling earth in the school premises located in Dharamshala of the village, when only the complainant, his brother Harcharan Singh and Harchand Singh remained at that place, other persons having left the spot, then accused Mohinder Singh armed with a gandasi along with Balwant Singh arrived there;

Mohinder Singh exhorted Balwant Singh to catch hold of Harchand Singh because he was not refraining from putting earth in the dharamshala; Balwant Singh caught hold of Harcharan Singh in a grasp, whereas Mohinder Singh gave gandasi blow to Harchand Singh hitting him on left side of head; resultantly Harchand Singh fell down; Mohinder Singh gave another gandasi blow to Harchand Singh with an intention to kill him but Kulwant Singh complainant warded off that blow by raising his hands; thereafter, the accused/assailants left the spot along with the weapons. The injured were taken to Rajindra Hospital, Patiala from where intimation was given to the police. The police party headed by SI Amarjit Singh arrived at the hospital and recorded statement of Kulwant Singh injured, which formed basis for registration of formal FIR. The matter was investigated. Accused were arrested in this case. After completion of investigation and other formalities, they were challaned and forwarded to face trial. As mentioned above, the trial of accused ended in their conviction and sentence, which left them dissatisfied and they have approached this Court by way of filing **CRA-S-541-SB-2001**, notice of which was given to the State.

It is pertinent to mention here that there is counter version of the incident furnished by Mohinder Singh, appellant/accused in **CRA-S-541-SB-2001** on the basis of which DDR No.19 dated 26.6.1993 was recorded with Police Station Model Town, Patiala, wherein he alleged that on 26.6.1993 at about 8:30 p.m., Kulwant Singh and Harcharan Singh accompanied by six other persons had trespassed into his house and gave him beatings. The police had not taken any action on the basis of that report. As such, Mohinder Singh filed a private complaint under Sections 325, 323, 452, 447, 504, 506, 148 and 149 IPC against Kulwant Singh, Harcharan Singh and six others, where the accused had been summoned but that complaint was ultimately dismissed. Regarding which the complainant in that case namely Mohinder Singh had filed an application

under Section 378(4) Cr.P.C. and leave to appeal had been granted to Mohinder Singh by this Court vide order dated 19.9.2001 and the said appeal is bearing No.**CRA-1072-SBA-2001** filed by complainant Mohinder Singh against the judgment dated 12.4.2001 passed by Additional Sessions Judge, Patiala vide which the accused were acquitted.

However, during the pendency of the proceedings, the parties had resolved their dispute in an amicable manner, placing on record compromise deed dated 15.1.2012, copy of which being Annexure A-1 along with affidavit of the complainant Annexure A-3 and affidavit of injured as Annexure A-2 contending that the parties are co-villagers and it would in the interest of justice, if they are allowed to compromise the matter. The factum of compromise between the parties has been got verified through the police authorities and DSP City-I, Patiala had submitted status report mentioning therein that Harchand Singh injured has since expired, however, statement of complainant Kulwant was recorded, copy of which being Annexure R1. In that statement Kulwant Singh admitted the factum of compromise having been arrived at between the parties due to intervention of respectable persons of the society.

Learned counsel for the appellants has prayed that offence under Section 324 IPC was earlier compoundable but it was made non-compoundable by way of Criminal Procedure (Amendment) Act, 2005. However, since at the time of the present incident, which took place before coming into being of Criminal Procedure (Amendment) Act, 2005, offence under Section 324 IPC was compoundable, this Court can allow the parties to compound such offence by granting necessary permission.

In support of his that contention, he has referred to various judgments i.e. *Ratneswar Talukdar & Anr. Versus State of Assam & Anr., 2019(2) GauLJ1, Shankar Yadav and Anr. Versus State of Chhattisgarh,*

2017(4) RCR(Criminal) 50, Naresh Kumar Versus State of Haryana and another, 2012(4) RCR(Criminal)160, Hirabhai Jhaverbhai Versus State of Gujarat & Ors., 2010(2) RCR(Criminal)824, Manoj & Anr. Versus State of Madhya Pradesh, 2008(4) RCR(Criminal) 552, Md. Abdul Sufan Laskar & Ors. Versus State of Assam, 2008(4) RCR(Criminal) 115, Dharambir and others Versus State of Haryana, 2017(4) AICLR 888 and Tek Chand and others Versus State of Haryana passed by this Court in Criminal Appeal No.904-SB of 2000.

Learned State counsel has not disputed the proposition of law put forward by learned counsel for the appellants duly supported by the judgments on the subject.

I find that both the complainant and accused side belong to the same village. One of the injured, namely, Harchand Singh has since expired. The incident in this case had taken place on 26.6.1993 i.e. about more than 28 years back. There is nothing on record to show that the appellant/accused have got any past criminal record or they are habitual offenders. It is being alleged by the prosecution that appellants/accused have not indulged in any criminal activity after being granted concession of suspension of sentence during the pendency of appeal. Under Section 320(5) composition of offence between the parties can be allowed with permission of the Court.

Considering the facts and circumstances of the case, I find it proper and appropriate to grant the necessary permission to the parties to compound the offences so that they can live in peace to promote public tranquility. As such, granting the necessary permission, the accused/appellants are acquitted of the charges framed against them by allowing the appeal.

CRA-S-541-SB-2001is allowed accordingly.

CRA-1072-SBA-2001(O&M)

Learned counsel for the appellant states that in view of the compromise having been arrived at between the parties, which has been accepted by the Court resultantly in acquittal of appellants Balwant Singh and Mohinder Singh in CRA-S-541-SB-2001, complainant Mohinder Singh, who is one of the appellant in CRA-S-541-SB-2001 does not want to pursue the present appeal and seeks necessary permission to withdraw the same.

Permission is granted.

CRA-1072-SBA-2001 is dismissed as withdrawn.

Necessary intimation be sent to the quarter concerned.

4.5.2022
Brij

(H.S. MADAAN)
JUDGE

1. Whether reportable? **No / Yes**
2. Whether speaking / reasoned? **No / Yes**