

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

I. **CRA-S-1146-SB-2011 (O&M)**
Date of decision: March 30, 2022

Jagtar Singh and othersAppellants
Versus
State of PunjabRespondent

II. **CRR-1580-2012**

Kala Singh and othersPetitioners
Versus
State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. G.S. Saini, Advocate
for the appellants (in CRA-S-1146-SB-2011)
for respondent No.2 (in CRR-1580-2012)

Mr. Rajesh Kumar Girdhar, Advocate
for the petitioners (in CRR-1580-2012) and
for the complainant (in CRA-S-1146-SB-2011).

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J.

Prayer in the instance criminal revision, i.e. CRR-1580-2012 is
for setting aside the impugned order dated 1.5.2012 passed by the Additional
Sessions Judge, Ferozepur, framing charges against the petitioners under
Sections 307/379/354/323/148/149 IPC.

It is worth noticing that while issuing notice of motion on
24.5.2012, the personal appearance of the petitioners was exempted.

Later on, vide order dated 11.10.2013, noticing the fact that it is stated by respondent No.2-Satto Bai that prosecution has concluded its evidence, the main petition was disposed of granting the liberty to the petitioners to raise all the pleas during the trial.

The petitioners preferred an SLP before the Hon'ble Supreme Court and the case was remanded back to this Court vide order dated 1.11.2013 with a direction to decide the main petition on merits.

It is worth noticing that in the cross-version case vide judgment/order dated 31.3.2011/7.4.2011, the accused persons were convicted and sentenced by the learned trial Court and they have challenged the said judgment/order by filing CRA-S-1146-SB-2011.

Brief facts of the case are that on 12.8.2011 respondent-complainant No.2-Satto Bai, along with 13 other persons, had kidnapped the petitioner No.2-Mukhtiar Singh and has caused injuries to him. Petitioner No.2 got registered FIR No.188 dated 13.8.2008 under Sections 364/308 IPC etc. against complainant-respondent No.2 and 13 others. After 3 days, on the basis of the statement of complainant-respondent No.2, a false cross-case was registered against the petitioners vide Rapat No.25 dated 16.8.2008. In her cross-version, complainant-respondent No.2 alleged that petitioners have also caused 3 injuries to her. During investigation, this cross-version of the complainant-respondent No.2 was found false and cancelled. However, in the main FIR case lodged by petitioner No.2,

complainant-Satto Bai (respondent No.2) and 13 others were challaned under Sections 364 and 308 etc. IPC.

Later on, during the course of the trial a defence was set up by respondent No.2 and others that the petitioners have also caused three injuries to Satto Bai-complainant/respondent No.2.

In the FIR case lodged by petitioner No.2, after full length trial, complainant-Satto Bai/respondent No.2 and 13 other co-accused were convicted by the Additional and Sessions Judge, Ferozepur vide judgment dated 31.3.2021. However, it was observed in the judgment that the cross-version/defence version with regard to causing injuries to Satto Bai is not proved.

Counsel for the petitioners submits that in the said judgment, the trial Court has framed as many as 07 points of determination and Point No.7 was whether accused Satto Bai also suffered injuries at the hands of the petitioners in the same occurrence and the trial Court on appreciation of evidence concluded that respondent No.2-Satto Bai never received any injury and held that her version is false and not proved.

Thereafter, complainant-respondent No.2 filed a private complaint on 1.11.2008 on the basis of the same cross-version as set up by her through Rapat No.25 dated 16.8.2018 in the FIR case. The trial Court after recording the preliminary evidence has summoned the petitioners and, thereafter, committed the case to the Court of Sessions.

On 1.5.2012, the case was fixed before the Additional Sessions Judge for framing of the charge and during the course of arguments, the petitioners brought the judgment to the notice of the trial Court that this allegation, as set up by Satto-Bai-respondent No.2 vide Rapat No.25 dated 16.8.2008, has already been adjudicated upon, being the cross-version and, therefore, the petitioners cannot be prosecuted by the same allegation again.

Counsel for the petitioner submits that, however, the trial Court without referring to the judgment dated 31.3.2011 has framed the charge. For a reference the operative part of the judgment reads as under :-

“19. The next argument of the learned counsel for the accused is that in this case accused Satto Bai had suffered injuries in the same occurrence which have not been explained by the prosecution. This argument of the learned defence counsel is devoid of any force because in the present case the accused have examined DW1 Dr.N.K. Sethi, Medical Officer, Civil Hospital, Fazilka who had medico-legally examined Satto Bai on 12.8.2008 at about 8.05 p.m. and had observed three injuries on her person DW DR. N.K. Sethi has specifically stated that probable during of injuries inflicted on the person of accused Satto Bai was within six hours. Accused Satto Bai was medico-legally at about 8.05 pm on 12.8.2008. Keeping in view the duration of injuries as stated by DW1 Dr. N.K. Sethi it becomes clear on the file that accused Satto Bai had suffered the alleged injuries approximately at about 2.00 pm whereas the occurrence in this case had taken place at 10.30 a.m. on 12.8.2008. From the on oath statement of DW1 Dr. N.K Sethi it is fully clear that fresh bleeding was present on all the three

injuries on the person or accused Satto Bai at the time of her medico-legal examination.

20. In the present case the prosecution has proved on the file copy of the MLR of PW1 Mukhtiar Singh complainant/injure, who had suffered injuries at about 10.30 a.m. on 12.8.2008 as Ex.P22. From the affidavit of PW6 Dr. A.S. Thind, who had conducted medico-legal examination on the person of PW1 Mukhtiar Singh complainant/injured, it is clear that the medico-legal examination of Mukhtiar Singh was conducted on 12.8.2008 at 7.1`5 pm. By PW3 Dr.A.S. Thind at Guru Gobind Singh Medical College and Hospital, Faridkot. It is mentioned in the copy of the MLR Ex.P22 and in the examination-in-chief of Dr. A.S. Thind that there was clotted and dried blood present on the injuries on the person of PW1 Mukhtiar Singh complainant/injured whereas in the medico-legal examination of accused Satto Bai it is mentioned that there was fresh bleeding from the injuries on the person of accused Satto Bai. In this case PW3 ASI Raminder Singh, Investigating Officer had recorded the statement of Satto Bai who had alleged that she was attacked by the complainant party along with so many other persons but during the investigation of this case it was found that her statement was not correct. Rather the sae was doubtful and suspicious. In this case an inquiry was also conducted by the DSP and it is mentioned in the inquiry report of the DSP that accused Satto Bai did not suffer any inquiry in the same occurrence and this fact has also been supported by DW1 Dr. N.K. Sethi. According to DW1 Dr.N.K. Sethi the duration of the injuries on the person of accused Satto Bai was within six hours indicating that accused Satto Bai might have suffered injuries at about 2.00 p.m. whereas the occurrence in the present case had taken place at 10.30 a.m. PW3 ASI

Raminder Singh, Investigating Officer had also mentioned in his report that in the present case when he had inspected the place of occurrence then accused Satto Bai had given water etc. to the police party and at that time there was no injury on the person of accused Satto Bai. The report of PW3 ASI Raminder Singh, Investigating Officer was fully endorsed by the DSP of the Sub Division, copy of which has also placed on the file. So it is not proved that accused Satto Bai had also received injuries in the same occurrence in which PW1 Mukhtiar Singh complainant/injured had suffered injuries.”

The petitioners have filed the present CRR-1580-2012 challenging the aforesaid order and the same was disposed of on 11.10.2013. However, the Hon’ble Supreme Court vide order dated 1.11.2013 remanded the case back.

Counsel for the petitioners has argued that once the Additional Sessions Judge, Ferozepur, while dealing with the FIR case as well as the cross-version vide DDR No.25 has adjudicated the same with regard to the same occurrence by recording a finding that it could not be proved by Satto Bai that she suffered injuries in the same occurrence at the hands of the petitioners, there was no occasion for the trial Court to again frame the charge with regard to the same occurrence while entertaining the complaint filed by Satto Bai. Counsel for the petitioner further submits that it amounts to double jeopardy as the petitioner cannot be asked to face the trial for the same occurrence more than once.

It is worth noticing that the petitioners, in compliance of the order dated 20.1.2020, deposited the costs of Rs.10,000/- with the High Court Legal Services Authority for delaying the proceedings.

Prayer in this appeal, i.e. CRA-S-1146-SB-2011 is for setting aside the judgment of conviction 31.3.2011 and order of sentence dated 7.4.2011 vide which, all the 14 appellants, namely, Jagtar Singh, Nimmo Bai, Satto Bai and Vido Bai were convicted under Sections 364, 308, 326, 324, 323, 342, 506 and Section 149 IPC and were sentenced to imprisonment for a substantive period 4 years and to pay a fine of Rs.2,000/- each and in default of payment of fine, to undergo imprisonment for three months and Pritam Singh, Joga Singh, Kuldip Singh, Harmit Singh, Daliip Singh, Gurdev Singh, Balbir Singh s/o Arjan Singh, Balbir Singh s/o Fatta Singh, Gurmakh Singh and Gurmit Singh were convicted under Sections 364, 308, 326, 324, 323, 342, 506 and Section 149 IPC and sentenced to imprisonment for a substantive period 5 years to pay a fine of Rs.2,000/- each and in default of payment of fine, they shall further undergo imprisonment for three months.

The appeal pertains to the year 2011 and the same was admitted on 25.4.2011 and the sentence of the appellants was suspended on different dates.

An application was filed on behalf of the complainant for enhancement of sentence, however, the same was dismissed by a Division Bench of this Court vide order dated 6.3.2012.

Counsel for the appellant has argued that on 23.1.2013, a compromise was effected between Jagtar Singh and others-appellants in CRAS-1146-SB-2011 on one side and Kala Singh and others-petitioner in CRR-1580-2012 and the same was signed by both the parties as well as the witnesses for the Panches of the village.

The contents of the compromise reads as under :-

- “1. That on the statement of Mukhtiar Singh son of Veer Singh-one of the members of second party, a FIR No.188 dated 13.8.2008, Police Station Sadar Jalalabad, under Sections 364, 379, 342, 323, 324, 325, 326, 308, 506, 148, 149 IPC and thereafter some members of the first party were convicted for five years and some were convicted for four years; under the above mentioned offences, vide judgment of conviction dated 31.3.2011 and order of sentence dated 7.4.2011, passed by learned Court of Additional Sessions Judge, Ferozepur. It is pertinent to mentioned here that there was only one injured in this FIR case i.e. Mukhtiar Singh complainant.
2. That Sato Bai, wife of Dalip Singh – one of the members of first party, filed a criminal complaint i.e. Complaint No.188 dated 13.8.2008 against second party, before the Court of learned Sub Divisional Judicial Magistrate, Jalalabad (West) under Sections 307, 323, 354, 379, 452, 148, 149 of Indian Penal Code and after examined the preliminary evidence; vide order dated 31.5.2011, the second party was summoned to face the trial in above mentioned complaint. Thereafter, vide order dated 1.5.2012 passed by learned Court of Additional Sessions Judge, Ferozepur charges were framed against the second party. It is pertinent to mention here that there was only

one injured in this complaint case i.e. Sato Bai-complainant.

3. That the first party filed an appeal against the judgment of conviction dated 31.3.2011 and order of sentence dated 7.4.2011, passed by learned Court of Additional Sessions Judge, Ferozepur vide appeal No. CRA-S-1146-SB of 2011 titled as “Jagtar Sigh and others Vs. State of Punjab” before Punjab and Haryana High Court at Chandigarh and now this appeal is pending for final adjudication. It is submitted that sentence of all the members of the first party has suspended vide separated orders.
4. That the second party also filed an appeal against the judgment of conviction dated 31.3.2011 and order of sentence dated 7.4.2011, passed by learned Court of Additional Sessions Judge, Ferozepur vide appeal No.CRA-D-1021-DB-2011 titled as “Mukhtiar Singh Vs. State of Punjab and others” before Punjab and Haryana High Court at Chandigarh, whereby prayer is made for enhance the sentence awarded to the first party. This appeal is also pending for final adjudication.
5. That second party also filed a criminal revision i.e. CRR-1580 of 2012, before Punjab and Haryana High Court at Chandigarh against the order dated 1.5.2012 passed by the learned Additional Sessions Judge, Ferozepur, whereby charges were framed against the embers of the second party; in above mentioned criminal complaint filed by the first party. This revision is also pending for final adjudication.
6. That now all the above mentioned three cases are pending before Punjab and Haryana High Court at

Chandigarh and same are listed together for its final adjudication. Now, these cases are fixed for 28.1.2012.

7. That during the pendency of these cases before Hon'ble High Court, with the intervention of respectable persons of the village, relatives of both the parties and other well wishers of the parties, the dispute have been amicably settled and no party want the taken further legal proceedings against each other.
8. That the second party has no objection if appeal of the first party i.e. CRA-S-1146-SB of 2011 may be allowed and set aside the judgment of conviction dated 31.3.2011 and order of sentence dated 7.4.2011, passed by learned Court of Additional Sessions Judge, Ferozepur; on the basis of this compromise and the first party order to be acquitted from the charges framed against them.
9. That the second party is also ready to withdraw its appeal i.e. CRA-D-1021-DB of 2011, which was filed against judgment of conviction dated 31.3.2011 and order of sentence dated 7.4.2011, passed by learned Court of Additional Sessions Judge, Ferozepur, with a prayer for enhancement of sentence.
10. That the first party has no objection if this Hon'ble High Court ay allow the criminal revision of second party i.e. CRR-1580 of 2012 and set aside the order dated 1.5.2012 passed by the learned Additional Sessions Judge, Ferozepur, whereby charge were framed against the second party.
11. That this compromise is being executed without any pressure, undue influence and fear and with consent of both parties.

12. That this compromise is being executed in writing between the parties, in the presence of witnesses and both the parties should be bound to compliance the terms and conditions of this compromise.”

Counsel for the appellants has has argued that in view of the compromise between the parties, considering the age of the appellants and the fact that they are the first offenders, the sentence awarded to the appellants be reduced to the sentence already undergone by them.

Counsel for the appellants submits that the occurrence took place on 12.8.2008 and the parties are residents of the same village, i.e. Chak Pun nawala and belong to the same community, in order to bring peace and harmony in the village, they have entered into a legal and valid compromise.

Counsel for the appellants submits that the appellant No.1 is aged about 85 years and similarly the other appellants have also faced the agony of protracted trial for a period of 14 years and there is no complaint that in the intervening period when the appellants were on bail or subsequent to filing of the present appeal in the year 2011, when their sentence was suspended, none of the appellants has misused the concession of bail/suspension of sentence and has never extended any threat to the complainant side. Counsel for the appellants further submits that all the appellants have shown substantive improvement in their character and have now matured to understand that it is in the larger interest of their community

to maintain peace and harmony in the village and, therefore, the compromise has been effected between both the parties.

Counsel for the complainant-petitioners in CRR-1580-2012 has also acknowledge that there is a compromise between the parties and submit that in case CRA-S-1146-SB of 2011 on the basis of the compromise the sentence of the appellants is reduced and CRR-1580-2012 be also allowed and the impugned summoning order dated 1.5.2012 be set aside.

Counsel for the appellants submits that the appellants have also deposited the costs of Rs.10,000/- with the High Court Legal Services Authority for delaying the proceedings.

After hearing learned counsel for the parties, I find merit in the case for the reasons below :-

- (a) The occurrence is of dated 13.1.2008 and both the parties have faced protracted trial for a period of about 14 years;
- (b) In both, the version and cross-version cases, all the accused remained on bail or their sentence was suspended after filing of the appeal before this Court;
- (c) There is no allegation that either of them have misused the concession in any manner and, therefore, they have shown substantive improvement in their character that in order to maintain peace and harmony in the village, they have entered into a legal and valid compromise; and
- (d) One of the appellants, Jagtar Singh, is aged about 85 years and the other appellants are also either the ladies or persons having their own families to support.

In view of the judgment of this Court in In *Sube Singh and another vs. State of Haryana and another, 2013 (4) R.C.R. (Criminal) 102*, CRR-1580-2012 is allowed, setting aside the summoning order dated 1.5.2012 passed by the Additional Sessions Judge, Ferozepur, whereas appeal, i.e. CRA-S-1146-2011 is partly allowed and the judgment of conviction dated 31.3.2011 the order of sentence dated 7.4.2011 passed by the Additional Sessions Judge, Ferozepur is modified to the extent that the sentence of the appellants is reduced to the period already undergone by them.

The above mentioned appeal as well as the revision are disposed of, accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

March 30, 2022
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Whether speaking/reasoned : YES / NO

Whether reportable : YES / NO