

CRA-S-1906-SB-2007 (O&M), CRA-S-2009-2007 (O&M) 1
CRA-S-2020-SB-2010 (O&M), CRR-2255-2007 (O&M), &
CRR-3182-2010

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: May 18, 2023

1.

CRA-S-1906-SB-2007 (O&M)

Gora Singh @ Gurbaksh Singh

State of Haryana

Versus

...Appellant

...Respondent
2.

CRA-S-2009-SB-2007 (O&M)

Gurdev Singh and another

State of Haryana and another

Versus

...Appellants

...Respondents
3.

CRA-S-2020-SB-2010 (O&M)

Rinku @ Sandeep and another

State of Haryana

Versus

...Appellants

...Respondent
4.

CRR-2255-2007 (O&M)

Balkar Singh

State of Haryana and others

Versus

...Petitioner

...Respondents
5.

CRR-3182-2010

Balkar Singh

State of Haryana and others

Versus

...Petitioner

...Respondents

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CORAM: HON’BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Paramjit Singh Brar, Advocate,
for the appellant(s), and
for respondent Nos. 2 to 4 in CRR-2255-2007 &
for respondent Nos. 2 and 3 in CRR-3182-2010.

Mr. Baltej Singh Sidhu, Senior Advocate, with
Mr. Divij Datt, Advocate,
for the petitioner(s) in CRR-2255-2007 & CRR-3182-2010 &
for the complainant in CRA-S-1906-SB-2007; CRA-S-2009-SB-
2007; & CRA-S-2020-SB-2010) and
Mr. Balkar Singh – Petitioner/Complainant-in-person.

Mr. Pawan Kumar Jhanda, Deputy Advocate General, Haryana.

SANJAY VASHISTH, J.

1. This judgment shall dispose of aforementioned five cases, i.e. three criminal appeals and two revision petitions, as the same have arisen out of same occurrence. For convenience, basic details of these cases has been tabulated as under:

High Court Case No.	Filed By	Trial Court Case No.	Date(s) of Judgment of conviction / order of sentence / passed by	Prayer
CRA-S-1906-SB-2007	Gora Singh @ Gurbaksh Singh	Sessions Case No. 130, dated 31.07.2003/ 08.08.2006	13.09.2007 / 17.09.2007 / Sessions Judge, Sirsa	For setting aside the impugned judgment of conviction and Order of sentence.
CRA-S-2009-SB-2007	i. Gurdev Singh; & ii. Pawan	Sessions Case No. 130, dated	13.09.2007 / 17.09.2007 / Sessions	For setting aside the impugned judgment of conviction and Order

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	Kumar @ Pammi	31.07.2003/ 08.08.2006	Judge, Sirsa	of sentence.
CRA-S-2020-SB-2010	i. Rinku @ Sandeep; & ii. Baldev Singh @ Banti	Sessions Case No. 11-SC, dated 15.12.2007/ 30.07.2009	10.08.2010 / 14.08.2010 / Additional Sessions Judge (Fast Track Court), Sirsa	For setting aside the impugned judgment of conviction and Order of sentence.
CRR-2255-2007	Balkar Singh (Complainant)	Sessions Case No. 130, dated 31.07.2003/ 08.08.2006	13.09.2007 / 17.09.2007 / Sessions Judge, Sirsa	For enhancement of the sentence.
CRR-3182-2010	Balkar Singh (Complainant)	Sessions Case No. 11-SC, dated 15.12.2007/ 30.07.2009	10.08.2010 / 14.08.2010 / Additional Sessions Judge (Fast Track Court), Sirsa	For enhancement of the sentence.

FACTS:

2(i). As per prosecution, on the basis of statement dated 08.11.2002 (Ex. PB), made by **Complainant/injured - Balkar Singh**, FIR No.198, dated 08.11.2002 (Ex. PB/2), under Sections 307, 365, 367, 148 & 149 IPC, and Section 25 of the Arms Act, was registered at Police Station Sadar Dabwali, District Sirsa. The complainant/injured – Balkar Singh in his statement (Ex. PB) stated that:

He had a transport company at C-138, Mori Gate, Old Delhi and had a shop of vegetables on commission basis with the name of Boor Singh Balkar Singh in which Avinash son of Bihari Lal Arora, resident of Sukhera Basti Abohar was their partner. And

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that there had been a dispute about 1¼ month prior to this incident between Avinash Narang and Gurdev Singh, Pawan Kumar and Gora Singh (accused persons) and a case was registered at Abohar against the latter in view of injuries sustained by Avinash and that the complainant had helped Avinash in that case which was to the annoyance of the accused persons and that accused Gurdev Singh was the President of Vegetable Market Abohar and Pammi @ Pawan Kumar was President of Rehri Union and that they wanted to pickup quarrels with him on petty matters which complainant avoided and that on 29.10.2002 he had gone to Delhi alongwith Vikram son of Surjit Singh resident of College Road Abohar in the Maruti car of their friend Keepa Singh bearing registration No. PB-20-0023 in connection with transport business and that on 4.11.2002 after Dewali worship he was going to his in-laws house at village Kalirawan near Sadul Shahr and from there he had to take his family members to Abohar and that at about 5.30 PM when they tried to board their car after paying respects at Gurudwara of village Chormar, meanwhile a gypsy of white colour without registration number overtook them in which accused Gurdev Singh was sitting on the front seat and Gora Singh accused was driving the said gypsy and three other persons were also sitting on the rear seat and that at about 6.30/7.00 PM when they reached near Rajwaha after crossing Aboobshahr the said gypsy intercepted the complainant and that Pammi @ Pawan Kumar and his brother Rinku and Banti brother of accused Gurdev Singh, were sitting on the rear seat. The complainant did not stop his car on account of fear and that their car was followed by the said gypsy and that accused Gurdev Singh, who was sitting on the conductor's side, fired a shot at the complainant in order to kill him which hit on the rear window of the car on driver side and they brought the gypsy ahead of the car and that Pammi @ Pawan Kumar and Banti accused were armed with sword whereas Rinku was armed with a Gandasi and they started hitting their car with the said weapons. Vikram fled towards adjoining fields due to fear and that the complainant was dragged out of the car and accused Rinku gave a gandasi blow hitting him on his backside of the head. The complainant tried to run away but he was again dragged out of the car and put in the gypsy and was taken upto a distance of 2-3 KM. and then he was attacked after taking out of the gypsy by Banti and Pammi with their swords and that accused Gora and Gurdev caught hold him and accused Rinku gave a gandasi blow hitting on the left arm of the complainant. Then Vikram came there in a car and seeing the head lights of other

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trucks the accused persons fled alongwith their weapons in their gypsy. The complainant became unconscious and when he regained consciousness he came to know through Vikram that Boor Singh, complainant's brother, had hospitalized him and that on account of serious injuries he was referred to General Hospital Sirsa."

2(ii). After completion of investigation, main challan was presented against three accused, namely, (i) Gurdev Singh, (ii) Pawan Kumar, & (iii) Gora Singh. Case against them was committed vide order dated 07.07.2003, passed by learned Sub Divisional Judicial Magistrate, Dabwali, and they faced the trial in Sessions Case No. 130, dated 31.07.2003/08.08.2006. They were charged for commission of offence punishable under Sections 148, 307/149, 367, 326/149 and 324/149 IPC, vide order dated 27.08.2003, passed by the then learned Additional Sessions Judge, Sirsa. The said trial culminated into conviction and sentence of (i) Gurdev Singh, (ii) Pawan Kumar, & (iii) Gora Singh, vide judgment of conviction dated 13.09.2007, and order of sentence dated 17.09.2007, passed by learned Sessions Judge, Sirsa.

2(iii). Whereas remaining two accused, i.e. (i) Rinku @ Sandeep, & (ii) Baldev Singh @ Banti, were kept in Column No. 13, because both of them were declared as Proclaimed Offenders, vide order dated 18.04.2003.

After the arrest of these two accused, supplementary challan was filed and case against accused Baldev Singh @ Banti and Rinku @ Sandeep was committed, vide orders dated 07.10.2008 and 05.12.2007, respectively, passed by learned Sub Divisional Judicial Magistrate, Dabwali, and they were

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tried in Sessions Case No. 11-SC, dated 15.12.2007/30.07.2009. They were charged for commission of offence punishable under Sections 148/307/364/367/326 read with Section 149 IPC, vide order dated 31.10.2008, passed by the then learned Additional Sessions Judge, Sirsa. Said trial also culminated into conviction of accused Baldev Singh @ Banti and Rinku @ Sandeep, vide a separate judgment dated 10.08.2010, and consequential order of sentence dated 14.08.2010.

2(iv) In both the aforementioned Session Trials, all the accused [appellant(s) herein] were held guilty for the offences punishable under Sections 148/307/324/326/367 read with Section 149 IPC, and ordered to undergo sentence as under:-

Under Section	Sentence	Fine	In Default
148 IPC	1 year R.I. each	--	--
324/149 IPC	1 year R.I. each	--	--
326/149 IPC	5 years R.I. each	Rs.5,000/- each	6 months each
307/149 IPC	5 years R.I. each	Rs.5,000/- each	6 months each
367/149 IPC	3 years R.I. each	Rs.5,000/- each	6 months each

2(v). All the sentences have been ordered to run concurrently & already undergone period of custody in connection with this case, has been ordered to be set-off against the total period of substantive sentence. It has further been ordered that on realization of the amount of fine, same shall be paid to the injured Balkar Singh as compensation.

3. It is pertinent to notice here that the appellant(s) have been

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convicted and sentenced by the learned Court(s) below after considering the evidence and stand taken by the appellants (accused). In this regard, concluding part of the judgment(s) of conviction dated 13.09.2007 & 10.08.2010, i.e. paragraph No(s). 29 and 23, respectively, says as under:-

Para 29 of the Judgment of Conviction dated 13.09.2007:

“29. So, in these circumstances on thorough perusal of the testimony of PW-7 Balkar Singh injured and eye-witness Vikramjit Singh PW-8 and other prosecution witnesses, it is made out that there are no reasons to disbelieve their testimony with regard to attacking Balkar Singh by accused Gurdev Singh, Gora Singh, Pammi @ Pawan Kumar and other two accused namely Rinku and Banti who are since absconding and that it amply stands proved that accused Gurdev Singh fired at Balkar Singh with intention to kill him and that accused Pammi and Rinku had also inflicted a sword blow on the nose of Balkar Singh which (injury No. 1) was found to be grievous and other injuries no. 2 to 4 were simple caused by sharp edged weapon. As stated earlier as many as four injuries were received by Balkar Singh in this attack. Thus the prosecution has been able to bring home the guilt of the said three accused-persons that they were being the members of unlawful assembly on 4.11.2002 and that accused Gurdev Singh had fired at Balkar Singh in order to kill him and furthermore they had also kidnapped Balkar Singh in order to cause his murder or disposing him or causing him grievous injuries and further that injury no. 1 caused with sword by accused Pammi @ Pawan Kumar was found grievous and they also caused other simple injuries with sharp edged weapon and thus there is no force in defence version about delay in lodging the FIR which duly stands explained in view of unfitness of injured Balkar Singh from 4.11.2002 to 8.11.2002. Thus, all the said three accused-persons namely Gurdev Singh, Pawan Kumar and Gora Singh are hereby held guilty for the offence under Sections 148, 307, 324, 326, 367 read with Section 149 IPC and thus they all stand convicted thereunder.”

Para 23 of the Judgment of Conviction dated 10.08.2010:

“23. After appraisal of the evidence adduced by the

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prosecution the Court is of the view that the statement of PW3 Balkar Singh, PW4 Bikramjeet Singh read with the statements of remaining witnesses coupled with exhibited documents are cogent and sufficient and accordingly it is held that the accused persons in furtherance of their common object being members of unlawful assembly committed the offence of rioting, Gurdev Singh fired a shot from the pistol upon Balkar Singh PW3 with such intention or knowledge and under such circumstances that if by that act PW3 Balkar Singh had died, they abducted Balkar Singh in order that he might be murdered or disposed of as to be put in danger of being subjected to grievous hurt or being murdered, they caused simple as well as grievous hurt to PW Balkar Singh with sharp edged weapon and they have committed the offence punishable under Sections 148/307/324/326/367 read with Section 149 IPC and held guilty for the commission of these offences and convicted accordingly. Let the prosecution and convict be heard on the quantum of sentence.”

4. The appellant(s) have approached this Court by way of filing three appeals, for setting aside the impugned judgment(s) of conviction and order(s) of sentence, and the complainant/injured – Balkar Singh has filed two revision petitions, for enhancement of sentence, as already noticed in the opening para of this judgment. After admission of the respective appeal, the sentence of the appellant(s) was suspended and they were ordered to be released on bail, vide orders dated 24.04.2008 passed in CRM-8797-2007 in CRA-S-1906-SB-2007; 20.05.2008 passed in CRM-1238-2008 in CRA-S-2009-SB-2007; and 19.09.2011 passed in CRM-27062-2011 in CRA-S-2020-SB-2010.

5. During the pendency of these appeals and revision petitions, Gurdev Singh and Pawan Kumar @ Pammi (appellants in CRA-S-2009-2007), filed Criminal Miscellaneous Application No. CRA-36922-2019 in CRA-S-2009-SB-2007, for impleading complainant/injured – Balkar Singh as

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respondent No. 2 and for placing on record the photocopy of the notarized compromise/affidavit dated 07.11.2019 and 12.11.2019, as Annexure A-1. The said application was allowed vide order dated 03.12.2019, and complainant/injured – Balkar Singh was impleaded as respondent No. 2 in CRA-S-2009-2007. Photocopy of the said compromise/affidavit (Annexure A-1) was also taken on record, subject to all just exceptions. Thereafter, on 20.02.2020, when these matters came up for consideration before a Co-ordinate Bench of this Court, following order was passed:-

*“Present:- Mr. P.S. Brar, Advocate,
for the appellants in CRA-S-2020-SB of 2010.*

*Mr. B.S. Sidhu, Advocate,
for the petitioner(s) in CRR-2255-2007 & 3182-2010
and for the complainant in CRA-S-1906-SB of 2007,
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2010.*

Mr. Chetan Sharma, AAG, Haryana.

Parties are directed to appear before the trial Court for their statements qua genuineness of alleged compromise subject to deposit of Rs.1,75,000/- by the appellants, out of which `87,500/- shall be deposited with the Poor Patients' Welfare Fund of the Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh and Rs.87,500/- with the Welfare Centre for Persons with Speech and Hearing Impairment, Chandan Nagar, Sector 15, Phase-2, Behind ITI, Gurugram, Bank Account No.000434003000357, the Gurgaon Central Co-operative Bank Ltd. or Bank, Account No.1245010000518, United Bank of India. They can also opt to deposit the aforesaid amount of Rs. 87,500/- with the PGIMER online through its website “www.pgimer.edu.in”. Thereafter, parties shall appear before the concerned trial Court after having the receipt of amount of Rs.1,75,000/- as above, who shall record their statements and send a report to this Court as to whether the compromise is genuine,

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without any pressure or undue influence and also whether any accused was declared as proclaimed offender, till the next date of hearing.

Adjourned to 30.3.2020 for consideration.

Original receipts qua deposit of above costs be produced in this Court on the next date of hearing.

To be shown in the urgent list.

A photocopy of this order be placed on the files of other connected cases.”

6. In compliance of the aforementioned order dated 20.02.2020, the appellant(s) deposited Rs.87,500/-, in United Bank of India Savings A/c No. 1245010000518, i.e. in account of ‘*Welfare Centre for Persons with Speech and Hearing Impairment*’, on 06.03.2020, and another sum of Rs.87,500/- was also deposited with the ‘*Poor Patient Assistance Cell, Postgraduate Institute of Medical Education and Research, Nehru Hospital, Chandigarh*, vide Receipt No. 4738, dated 06.03.2020. As a proof of deposit of said amounts, Mr. Paramjit Singh Brar, learned counsel for the appellants, has furnished original counterfoil of the deposit voucher, dated 06.03.2020, issued by United Bank of India, and a photocopy of Receipt No. 4738, dated 06.03.2020, in this regard, which are taken on record. Registry is directed to tag the same at an appropriate place in the file.

7(i). Furthermore, learned Additional Sessions Judge, Fast Track Special Court, Sirsa, has also sent its report dated 18.03.2020, alongwith statement of the complainant/injured – Balkar Singh, dated 07.03.2020, and

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affidavits dated 07.03.2020, duly sworn by accused/appellants, in original, vide Letter No. 59, dated 18.03.2020, with regard to genuineness of the compromise entered between the complainant and accused persons. Same are also taken on record. Report dated 18.03.2020, sent by learned Additional Sessions Judge, Fast Track Special Court, Sirsa, says as under:-

*“Present: Ms. Samishta, Public Prosecutor for State.
Sh. Shingara Singh Advocate for accused.*

Translation of report of Police Station City-I Abohar (Punjab) received from the translator of this Court. According to this report, there was no criminal case except present case found registered against accused Gurdev Singh son of Mahender Singh and Banti @ Baldev Singh, both resident of Dharam Nagar, Abohar and Gora @ Bakshish Singh, Rinku @ Sandeep and Pawan Kumar, all resident of Anand Nagri, Abohar. However, one criminal case FIR No. 65 dated 24.04.2011 under Sections 336/323/506/148/149 IPC and 25/27/54/59 Arms Act, Police Station City Abohar was found registered against accused Gurdev Singh son of Mahender Singh. There is nothing in the record that all the aforesaid accused were declared proclaimed offender in any case.

The duly sworn affidavit of the accused persons as well as statement of complainant has been recorded in present case on last date i.e. 07.03.2020.

The Court has asked the complainant personally with regard to voluntariness of his statement made before this Court. Accordingly, he suffered his statement without any threat, coercion, pressure or any influence. There is nothing on record that the complainant made the statement under any force or pressure.

Since, Hon’ble High Court vide order dated 20.02.2020 has sought the report with regard to genuineness of the compromise entered between complainant and accused persons in the present case. This Court found the compromise without any fear or pressure between the parties and therefore, it seems to be

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genuine. Now the report in compliance of order dated 20.02.2020 be sent to Hon'ble High Court along with the original copy of the statement of the complainant, affidavit of the accused persons and the original report from the Police Station City-I Abohar (Punjab). The reader of this Court is directed to retain the photocopies of abovesaid documents on file. And the papers be consigned to Records.

*Sd/-
(Anil Kumar)
Additional Sessions Judge,
Fast Track Special Court, Sirsa
18.03.2020 (UID No. HR0495)"*

7(ii). This Court has also perused the statement of complainant/injured – Balkar Singh, which was recorded in Hindi on 07.03.2020, before learned Additional Sessions Judge/FTSC, Sirsa, and its translated version in English, says as under:-

“ St vs. Gurdev Singh etc.

Statement of Balkar Singh S/o Makhan Singh Age 58y R/o Mangal Nagari Sito Road Abohar.

On SA

Stated that my compromise has been effected with accused. Keeping in view peace and brotherhood, I have compromised through Panchayat. Now I have no grouse against accused. Accused were convicted by Hon'ble Sessions Court and now their appeal is pending before Hon'ble High Court. In case accused are acquitted, then I will have no objection. I have also no objection if FIR is quashed. I have given this statement without fear, pressure and without any greed.

*RO&AC
Sd/- Balkar Singh (In English)
Identified
Sd/- (In English)
(Sh. Rakesh Gilhotra Adv)
P2651/2012"*

*Sd/-
(Anil Kumar)
Addl. Sessions Judge/FTSC
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SUBMISSIONS:

8(i). Mr. Paramjit Singh Brar, learned counsel for the appellants submits that on account of political rivalry and previous enmity between complainant – Balkar Singh and accused/appellants, the accused/appellants have been enroped in false case, just to pressurize them, not to pursue criminal cases lodged against complainant – Balkar Singh or his partner – Avinash, at their instance. Further submits that complainant/injured had received total four injuries, and though injury No. 1 has been declared as grievous, but nowhere the doctor, who medico-legally examined the injured, has opined the said injury as '*dangerous to life*'. Thus, learned counsel argues that ingredients of Section 307 IPC are not made out in the present case. Further submits that learned Trial Court has overlooked material infirmities in the investigation, which were pointed out by the defense during arguments, and despite noticing in para No. 22 of the judgment of conviction, dated 10.08.2010, that there was defect in the investigation, yet convicted the appellants.

8(ii). Learned counsel for the appellants then submits that the occurrence had taken place way back on 04.11.2002. Now better sense has prevailed, and with the intervention of well wishers of both the side & respectable persons of the area, all the affected parties decided to resolve the dispute amicably by entering into compromise (Annexure A-1). Learned counsel further submits that now both the parties are living peacefully with mutual respect and care for each other. Learned counsel for the appellants,

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thus, prayed that the appeals filed by the appellants may be disposed of by keeping in view the intent of the compromise, and resultantly all proceedings arising from FIR No. 198, dated 08.11.2002, under Sections 307/365/367/148/149 IPC, and Section 25 of the Arms Act, registered at Police Station Sadar, Dabwali, District Sirsa; including the impugned judgment(s) of conviction, dated 13.09.2007 & 10.08.2010, and order(s) of sentence, dated 17.09.2007 & 14.08.2010, passed by learned Court below may be quashed or appellants may be acquitted/discharged of the charges levelled against them.

9. Mr. Baltej Singh Sidhu, learned Senior Counsel, assisted by Mr. Divij Datt, Advocate, appearing on behalf of petitioner/complainant/injured – Balkar Singh, has not opposed the submission made by learned counsel for the appellants as regards the compromise (Annexure A-1) and stated that complainant – Balkar Singh, who is present in person in the Court today, has no objection in allowing the prayer made by learned counsel for the appellants.

9(i). Mr. Divij Datt, learned assisting counsel for Mr. Baltej Singh Sidhu, Senior Advocate, identified the complainant – Balkar Singh, who is present in the Court, and also furnished photocopy of his Aadhaar Card No. 419683130082, which bears his signature (in English). The same is taken on record.

9(ii). On a specific question put by this Court to the complainant/injured – Balkar Singh, with regard to the compromise, he categorically and in clear terms stated that he has entered into compromise with accused/appellants

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without any threat or coercion and has no objection, if the appeals are allowed by this Court in terms of the prayer made by the appellants.

9(iii). At this juncture, Mr. Baltej Singh Sidhu, learned Senior counsel for the petitioner/complainant submits that he has no objection, if both the revision petitions filed by the petitioner/complainant – Balkar Singh are also disposed of as not pressed, in view of the compromise arrived at between the private parties, i.e. appellants and injured/victim – Balkar Singh.

10. Mr. Pawan Kumar Jhanda, learned Deputy Advocate General, Haryana, after going through the statement of complainant/injured – Balkar Singh and the report dated 18.03.2020, received from learned Additional Sessions Judge, Fast Track Special Court, Sirsa, very fairly admits that the matter has been compromised between the private parties. However, learned State counsel objects the prayer of the appellants for disposal of appeal in view of the compromise (Annexure A-1).

10(i). While opposing the submissions addressed on behalf of the appellants, learned State counsel submits that the prosecution has been able to prove that occurrence did take place and for the role attributed to respective appellants, they have been convicted and sentenced by the learned Trial Court by passing well reasoned judgment(s) of conviction and order(s) of sentence for the offences punishable under Sections 148, 324/149, 326/149, 307/149 and 367/149 IPC, because it has been proved that they were members of unlawful assembly with common object of causing grievous injury with deadly weapons

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on the person of the complainant/injured – Balkar Singh.

10(ii). Learned State counsel also produced copies of the custody certificates dated 05.09.2019, showing the period of sentence undergone by the appellants in the present case. Said custody certificates, dated 05.09.2019, are taken on record and Registry is directed to tag the same at an appropriate place of the file.

While referring to the custody certificate of Rinku @ Sandeep (appellant No. 1 in CRA-S-2020-2010), learned State counsel submits that against him another case FIR No. 283, dated 20.09.2005, under Section 323 and 324 IPC, was registered at Police Station Abohar, Ferozepur. He has also pointed out that even as per report dated 18.03.2020, sent by learned Additional Sessions Judge, Fast Track Special Court, Sirsa, another criminal case, i.e. FIR No. 65, dated 24.04.2011, under Sections 336/323/506/148/149 IPC and Section 25 of the Arms Act, was also registered at Police Station City, Abohar, against accused/appellant – Gurdev Singh.

10(iii). Learned State counsel, thus, submits that the appellants deserve no leniency and the appeals filed by them cannot be disposed of by compounding of offences/quashing the FIR and all other consequential proceedings, as also acquittal/discharge of the appellants on the basis of compromise between the complainant and appellants.

ANALYSIS OF ARGUMENTS & CONCLUSION:

11. I have heard learned counsel for the parties and with their able

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assistance gone through the record.

12. Prime issue involved in these appeals for consideration is that once the matter has been considered and decided by the learned Trial Court after appreciation of evidence; impugned judgment(s) of conviction & order(s) of sentence have already been passed; and appeal(s) as well as revision petition(s) against the same are pending before Appellate Court, whether proceedings can be quashed/compounded/finished on the basis of compromise amongst the private parties, especially when besides Sections 148, 324/149, 326/149, and 367/149 IPC, the appellant(s) have also been convicted for the offence punishable under Section 307/149 IPC.

13. To answer the said issue, it is imperative for this Court to go through the prime evidence adduced by the prosecution, to ascertain whether the findings recorded by learned Court below while convicting and sentencing the appellants are sustainable or not.

14(i). Dr. Surender Nain, Medical Officer, General Hospital, Dabwali, who medico-legally examined the complainant/injured – Balkar Singh, while appearing in the witness box as PW-4, in Sessions Case titled ‘State v. Gurdev etc.’, has deposed as under on 07.07.2005:-

“ On 4.11.2002, I medicolegally examined Balkar Singh son of Makhan Singh, resident of Sito Road, Abohar and found following injuries. Patient was unconscious, grade-IV and

1. Injury No. 1: 8cm x 1cm. Incised wound bone deep across the base of nose extending upto middle of both eyes. Advised ENT surgeon opinion and referred to G.H. Sirsa.

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Injury was kept under observation.

2. *Injury No. 2: 4 x 0.5 cm. incised wound present on lateral aspect of left wrist joint skin deep. Injury was simple in nature. Kind of weapon was sharp in nature.*
3. *Injury No. 3: 3 x 0.5 cm. incised wound present on right parietal region scalp deep. Injury was simple in nature. Kind of weapon was sharp.*
4. *Injury No. 4: 3 x 0.5 cm. two incised wound on two cms. distance present over posterior part of right parietal region, bone deep. Advised x-ray of skull. Injury was kept under observation and the kind of weapon used was sharp. Duration of all injuries was within six hours. Ex. PD is the carbon copy of MLR and Ex. PD/1 is the diagram showing the seat of injuries. Original M.L.R. of Ex. PD, I have brought today in the court. After examining patient Balkar Singh, he was referred to General Hospital, Sirsa. I sent information Ex. PE to SHO, P.S. Sadar, Dabwali. On 9.11.2002 at the police request Ex. PF, I opined after going through the report of ENT surgeon and Radiologist, Sirsa and declared injury no. 1 as grievous and injuries no. 2, 3 and 4 as simple in nature on the person of Balkar Singh vide my opinion Ex. PF/1.*

XXXX By Shri Shingara Singh, Advocate for all the accused.

It is correct that Ex. PE does not bear the signature of receiving authority. In routine, police receiving the ruqa, sign on hospital copy. Today, I have not brought the hospital copy of Ex. PE.”

14(ii). Said, Dr. Surender Nain, also appeared as PW-5, in Sessions Case, titled ‘State v. Rinku, and deposed as under on 09.10.2009:-

“ On 4.11.2002, I medicolegally examined Balkar Singh son of Makhan Singh, resident of Sito Road, Abohar and found following injuries. Patient was unconscious, grade-IV and

Injury No. 1: 8 CM C1. incised wound bone deep across the

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base of nose extending upto middle of both eyes. Advised ENT Surgeon opinion and referred to G.H. Sirsa Injury was kept under observation.

Injury No. 2: 4 x 0.5 cm. incised wound present on lateral aspect of left wrist joint skin deep. Injury was simple in nature. Kind of weapon was sharp in nature.

Injury No. 3: 3 x 0.5 cm. incised wound present on right parietal region scalp deep. Injury was simple in nature. Kind of weapon was sharp.

Injury No. 4: 3 x 0.5 cm. two incised wounds on two cms. distance present over posterior part of right parietal region, bone deep. Advised x-ray of skull. Injury was kept under observation and the kind of weapon used was sharp. Duration of all injuries was within six hours. Ex. P16 is a carbon copy of MLR and Ex. P-17 is the diagram showing the seats of injuries. I have brought original record of this MLR in the court today. After examining the patient Balkar Singh I referred into General Hospital, Sirsa, for further treatment. I sent information to the Police Ex. P-18 which bears my signatures. On 9.11.2002 at police request Ex. P19 I opined after going through the report of ENT Surgeon and Radiologist, Sirsa and declared Injury No. 1 as grievous and injuries No. 2, 3 & as simple in nature on the person of Balkar Singh vide my opinion Ex. P20.

XXXX S/Shri Ranjit Singh & JS Maan, Advocates for the accused.

It is correct that if injury caused by blunt weapon on a bony reason as scalp it looks like incised wounds. Injury was not bleeding at the time of examination of the injured. However blood was clotted. The cloth of the injured were not taken in possession. If the injuries are bleeding and cloths of the injured smear with blood their must be sand on the cloth of the injured if the receives injury which lying on the earth. I can not say whether there was any sand on the cloth of the injured. It is correct as per modi jurisprudence if their in a form body like sand or mud is on the cloth of injured if required to be mentioned in the MLR because it is determs the place of occurrence. It is correct injuries No. 3 & 4 are on the hair reasons. It is correct that the under the incised wounds their must be cutting of hair of injured. I did not

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mentioned regarding the position of hair of injured. I did not mentioned regarding the position of hair the injury 3 & 4. It is correct that I did not mentioned the depth of all the injuries on the person of Balkar Singh in mm since it was not possible. Thickness of the skin and muscle is less than a mm. It is correct that thickness on the none is also less than mm. Injuries is not more than six hours. It is incorrect that the no crite-area to determine the age of the incised wounds. The crite-area of incised wounds are to the margin of the wounds, clotted blood, scalp of wounds and ages of the wounds. It is correct that I have not mentioned the clotting of the blood in the MLR of patient Balkar Singh. The no arrangement of magnify glass in GH Dabwali. Injury No. 4 is vertical in direction. Injury No. 3 is oblige in direction. I can not say whether injury No. 1 is possible from front side by the assailants or not. Injury No. 2 is vertical in nature. Injured come to the hospital alongwith Boor Singh. The attendant did not details history of the assault mention in the MLR. It is wrong to suggest that patient was fit to make statement at the time of examination. Further wrong to suggest that I have return patient as unconscious to cover the delay at the instance of the complainant and his attendant. It is correct that I have not mentioned the margin of the injuries incised wounds since it was very clear that wound was incised in nature. It is wrong to suggest that I am deposing falsely.”

14(iii). Dr. J.K. Bishnoi, who was posted as SMO/ENT Specialist in the General Hospital, Sirsa, at the relevant time, and appeared as PW-9, in Sessions Case titled ‘State v. Gurdev Singh etc.’ and as PW-7, in Sessions Case titled ‘State v. Rinku etc.’, deposed as under on 24.10.2006 and 06.11.2009, respectively:-

Deposition of Dr. J.K. Bishnoi (PW-9), dated 24.10.2006:

“ When I was posted at General Hospital, Sirsa, on 8.11.2002, on police application Ex. PI, I gave my opinion Ex.PI/1 to the effect that as per MLX No. 2170 dated 5.11.2002 there was incised wound and nasal bone fracture was seen as per part x-rayed.

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xxx... by Sh. Ranjit Singh and Sh. Shingara Singh, Advocates.

I do not remember the time as to when I gave my opinion Ex. PI/1. I have not brought the register containing the relevant entry. Self-stated the same was not requisitioned from me. Wound was already stitched when I examined the patient, radiologically. In case of stitched wound it cannot be ascertained whether the injury was incised wound or was caused by blunt weapon. I have stated incised wound on the basis of MLR and MLX film. It is wrong to suggest that there was no fracture in the injury and that I have given a wrong opinion regarding the said injury.”

Deposition of Dr. J.K. Bishnoi (PW-7), dated 06.11.2009:

“ That on 8.12.2002 when I was posted as SMO/ENT specialist in General Hospital, Sirsa, on police application Ex. P22 I gave my opinion Ex. P22-A to the effect that as per MLX No. 2170 dated 5.11.2002 there was incised wound and nasal bone fracture on the person of Balkar Singh son of Makhan Singh.

xxx by Sh. Ranjeet Singh and Sh. J.S. Mann, Advocates for the accused.

I do not remember the time as to when I gave my opinion Ex. P22-A. I have not brought the register containing the relevant entry. Self stated the same was not requisitioned from me. Wound was already stitched when I examined the patient. In case of stitched wound it cannot be ascertained whether the injury was incised wound or was caused by blunt weapon. I have stated incised wound on the basis of MLR and MLX film. It is wrong to suggest that there was no fracture in the injury and that I have given a wrong opinion regarding the said injury.”

14(iv). Dr. Ashok Gupta, radiologically examined the complainant/injured – Balkar Singh, in the General Hospital, Sirsa, and appeared as PW-12, in Sessions Case titled ‘State v. Gurdev Singh etc.’, and as PW-8, in Sessions Case titled ‘State v. Rinku etc.’, and deposed as under on 27.11.2006 and

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06.11.2009, respectively:-

Deposition of Dr. Ashok Gupta (PW-12), dated 27.11.2006:

“ On 5.11.2002 I radiologically examined Balkar Singh son of Makhan Singh, r/o Seeto Road, Abohar and found fracture nasal bone. My report in this regard is Ex. PK and x-ray film is Ex. PK/1.

xxx....by Sh. Ranjit Singh and Sh. Shingara Singh, Advocates.

I do not remember the time of examination of the patient. I do not remember whether the patient was accompanied by any other person or not. I do not remember whether the patient came on foot or was on hospital trolley. As a routine the name and father's name and address of the patient are written on the basis of MLR report. I had not enquired for the same from the patient. Without seeing the record I cannot tell how many medico-legal x-rays were conducted on that day. I told above that I had not enquired about the parentage and address of the patient because in routine we do not make any such enquiry. Without consulting the MLR report I am not in a position to tell anything about the nature of the fracture, whether it was with sharp edged weapon or with blunt weapon. In case of fracture nasal bone it is not possible to differentiate whether the fracture is caused by a blunt weapon or by a sharp weapon. It is wrong to suggest that there was no fracture and I have given wrong report to oblige the prosecution. It is further wrong to suggest that I have concealed the condition of the patient knowingly at the time of x-ray to oblige the prosecution.”

Deposition of Dr. Ashok Gupta (PW-8), dated 06.11.2009:

“ On 5.11.2002 I was posted as Medical Officer, in General Hospital, Sirsa. On that day, I radiologically examined Balkar Singh son of Makahn Singh resident of Seeta Road, Abohar and found fracture nasal bone. My report in this regard is Ex. P23 and X-ray film is Ex. P24.

xxx by Sh. Ranjeet Singh and Sh. J.S. Mann, Advocates for the accused.

I do not remember the time of examination of the patient. I

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do not remember whether the patient was accompanied by any other person or not. I do not remember whether the patient came on foot or was on Hospital trolley. As a routine the name and father's name and address of the patient were written on the basis of MLR report. I had not enquired for the same from the patient. Without seeing the record I cannot tell how many medicolegal x-ray were conducted on that day. I told about that I had not enquired about the parentage and address of the patient because in routine we do not make any such enquiry. Without consulting the MLR report I am not in a position to tell anything about the nature of the fracture, whether it was with sharp edged weapon or with blunt weapon. In case of fracture nasal bone it is not possible to differentiate whether the fracture is caused by a blunt weapon or by a sharp edged weapon. It is wrong to suggest that there was no fracture and I have given wrong report to oblige the prosecution. It is further wrong to suggest that I have concealed the condition of the patient knowingly at the time of x-ray to oblige the prosecution."

14(v). Complainant/injured – Balkar Singh, while appearing as PW-7 on 14.12.2005, in Sessions Case, titled 'State v. Gurdev Singh and others', has deposed as under:-

" I am partner of firm M/s Punjab Transport, Mori Gate, Delhi. I am also a partner of M/s Boor Singh Balkar Singh, commission agent, Abohar (Punjab). Avinash Chander son of Bihari Lal, Sukhera Basti Abohar was also partner in firm M/s Boor Singh Balkar Singh, Abohar. On 29.10.2002 I alongwith Vikram went to Delhi in a car bearing registration No. PB 020-0023 Maruti White Colour and on 4.11.2002 we were returning from Delhi to Abohar, via Sardool Sahar, and at about 5-30 PM we reached near Gurdawara village Chormar. We paid respects at Gurudawara village Chormar and when we came out of Gurudawara in the meantime, a white Gypsy without any number plate came from Sirsa side drive by accused Gora Singh and was going towards Dabwali. The accused Gurdev Singh was sitting by the driver side, who is present in the court. The accused Pammi present in the court and Rinku, brother of accused Pammi and Banti brother of accused Gurdev, since proclaimed offender were sitting on the back seat. We both boarded our car and when

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reached at Bathinda crossing in the area of Mandi Dabwali, they all five with the said Gypsy were seen standing there. We turned towards Sangaria Rajasthan, and reached near canal bridge in the area of village Abubshahar. In the meantime, the same Gypsy driven by Gora Singh came crossed our Maruti car and accused Gurdev Singh gave a signal to stop the car. I apprehended danger and did not stop the car, and accelerated the speed. The accused Gurdev Singh fired at me with a pistol and bullet hit in the car. I preplexed and stopped the car. The accused stopped their Gypsy in front of our car. The accused Pammi and Buntty were armed with swords and accused Rinku was armed with Gandasi. They alighted from the Gypsy and attacked us, Vikram ran away from the spot. The accused forcibly took out me from the driver seat of the car. The accused Rinku gave a Gandasi blow on my head on back side. I again entered the car. The accused Gurdev and Gora again dragged me out of the car. They forcibly put me in their Gypsy. They carried the Gypsy towards Sangaria and stopped at a distance of 2/3 kilometers. The accused took out from the Gypsy. The accused Bantty gave a sword blow on head on right side. Accused Pammi gave a sword blow on my nose near eyes. The accused Rinku gave a Gandasi blow on my left wrist. The accused Gurdev caught me by legs, and laid on earth. In the meantime, one truck came from Sangaria side and my companion Vikram also came in the maruti car from back side. On seeing them, the accused went away in their Gypsy towards Dabwali. I gained consciousness in Govt. Hospital Sirsa and came to know that I was admitted in Civil Hospital Sirsa by my brother Boor Singh. The grudge was that about one month 7 days ago, there was fight between the accused persons and my partner Avinash. I took side of my partner Avinash. The accused started nursing grudge and inflicted injuries on my person. On 8.11.2002 I made statement Ex. PB and signed in token of correctness.

x x x by Shingara Singh, Advocate.

In my statement Ex. PB I did not get recorded that I preplexed and stopped the car. I am separate from my brother Boor Singh. I have four children. We had gone to Delhi for 4/5 days on the occasion of Diwali. My friend Vikramjit is married. Vikramjit has two children. Kipa Singh is only having one car. I was driving the car. Vikram also knows driving. The distance between Mandi Dabwali to Sadulghar is 50 kilometres. Village Kali Ravan of my in-laws is at a distance at from 4/5 kilometres

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from Sardulghahar, and distance between village Kali Ravan and Abohar is about 35/40 kilometres. The distance between Abohar and Dabwali directly is about 60 kilometres. We did not stop in the way from village Chormar to canal bridge in the area of village Abubshahar. The accused gave signal to stop the car while crossing our car, and when the accused Gurdev fired at the car, the Gypsy was running side by side to the car. At that time, the distance between the car and Gypsy was $\frac{3}{4}$ feet. The bullet hit in the rear window on back of driver seat. There was mark of bullet on the body of the car and bullet pierced to the matalic portion. The accused broke window pans of car, and only front glass was broken. I was laid by the accused on the rear portion of the Gypsy. The occurrence took place about 6-30/7 PM. The occurrence hardly continue for 2/3 minutes. I can not tell the name of the person who came in the car as I became unconscious on suffering injuries. I remained unconscious from 4.11.2002 to 8.11.2002. I faced trial in three criminal cases before the occurrence of fighting. It is correct that a criminal case for snatching a vehicle of Excise Department was registered against me in police station, City-Abohar, volunteered, I did not commit such offence and I was involved due to political rivalry. It is also correct that I was also arrested a criminal case in PS. City Abohar, u/s 307 IPC. Further, volunteered that this case was also registered under political pressure. I do not know that the car No. PB20-0023 was involved in the said case also. There is Nirankar Bhawan near bus stand, Abohar. It is incorrect to suggest that on 4.11.2002 a fight took place between me and accused Banty in front of Nirankari Bhawan near bus stand, Abohar. It is also incorrect to suggest that in the fight, we both suffered injuries and the incident was also noted in newspapers. It is incorrect to suggest that accused Gurdev, Gora, Pammi did not cause any injury on my person and the accused Gurdev Singh also did not fire at me. It is correct that during the days of occurrence, Congress party was in power in the State of Punjab. I do not know that I.N.L.D. party was in power in State of Haryana during those days. It is a fact that Mandi Dabwali is border place between Punjab & Haryana. It is correct that the accused party belong to Congress volunteered, I am also a Congress man. It is incorrect to suggest that due to rivalry between Rehri union office bearers and office bearers of vegetable and fruit market union officer bears, a false case has been registered against the accused. I am never convicted in any criminal case. No criminal case was never registered against me at the instance of accused Pammi. It is also

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incorrect that I am deposing falsely and no such occurrence took place. It is also incorrect to suggest that the accused are falsely implicated due to party faction. It is also incorrect that I am deposing falsely.”

14(vi). Complainant/injured – Balkar Singh, also appeared as PW-3, in Sessions Case titled ‘State Vs. Rinku etc.’, and deposed as under on 16.03.2009:-

“ I was a partner in a firm by the name of Punjab Transport, C-138, Mori Gate, Delhi. I also had the Fruit commission agent business by the name of M/s Boor Singh Balkar Singh, Abohar. Shri Avinash Chander son of Bihari Lal was my partner in the said firm. On 29.10.2002, I alongwith Vikramjit Singh went to Delhi on a car No. PB-20-0023 (Maruti). We returned from there on 4.11.2002. When were coming back via Rohtak, Hisar, Sirsa and Chormar, we reached Chormar at about 5.30 P.M. We stopped at Gurudwara, Chormar, a White coloured Gipsy without number came from behind driven by Gora Singh and Gurdev Singh was sitting by his side. On the rear seat, Pammi, Rinku and Banti were sitting. Rinku and Banti out of them are present today. We came out of the Gurudwara and started for our destination to Kalirawan in Sardeel Shahar in Rajasthan. When we reached near Dabwali Chowk, the said Gipsy was standing there. We from there turned towards Sangaria city. When we reached near village Abubshahar, the said Gipsy crossed us and then signaled us to stop. When we tried to flee away, Gurdev Singh above stated, fired a shot with his pistol upon me, which hit the middle portion of the front and rear portion (pillor) of our car. Afraid of, I stopped the car. Then the occupants of the Gipsy came to us. Pammi was armed with a sword, Rinku was armed with a Gandasi, Banti was also armed with a sword. They took me out of the car. Rinku gave a gandasi blow upon me which hit the back portion of my head. I once again entered the car. They broke the glasses of the car. They then kept me on the Gipsy and then fled away. After covering a distance of about 2-3 kilometers, they threw me out of the Gipsy and then started beating me. Banti gave a sword blow upon my head. Rinku gave a gandasi blow upon me wrist of the left hand. I fell down. When I fell down, Pammi gave a Kirpan blow upon my nose. Upon seeing the other vehicles coming, they fled away

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from the scene and I became unconscious. Vikram who was accompanying me, had escaped when our car was stopped by the occupants' Gipsy for the first time. I gained conscious on 8.11.2002. My statement Ex. P15 was then recorded by the police, which bears my signatures. The reason for enmity is that one Avinash Narang was my partner and the occupants of the above stated Gipsy had a quarrel with him, who I had supported.

XXX By Sh. Ranjit Singh and Sh. J.S. Maan, Advocates for the accused persons.

I know Surender Singh Vij and his son residents of Abohar. He had got registered a case against me under Sections 452, 323, 324 IPC. Volunteered. I have been acquitted in it. It is correct that the instant case was registered about 5-6 months after the above stated case. It is wrong that Pawan Kumar, one of the accused in the instant case, was a witness against me in the said case. My truck had not been impounded by the Excise Police. It is incorrect that I was carrying illegal articles in the said truck. It is wrong to suggest that a case bearing FIR No. 271 dated 10.9.2002 stands registered against me at P.S. City, Abohar. It is incorrect that the said case is pending against me till date. It is incorrect that I had snatched the said truck from the police. It is incorrect that one Om Parkash son of Dharam Chand, Caste Balmiki, resident of Sant Nagar Gali, Abohar had got lodged a case bearing FIR No. 193 dated 4.9.2001 against me at P.S. City, Abohar. It is wrong to suggest that the said case is still going against me. It is wrong that I had used the Maruti car no. PB-20-0023 in the said crime. It is wrong to suggest that the said case is still pending against me. I do not know as to whether Rajpal son of Bihari Lal, Caste Arora is the brother of my partner Avinash. Avinash is Arora by caste. I do not know as to whether the said Rajpal had got registered a case bearing FIR No. 280 dated 27.9.2002 at P.S. City, Abohar under Section 323, 324, 506, 336, 148, 149 IPC against Gurdev Singh son of Mahender Singh and accused present in court namely Banti alias Baldev son of Mahender. I am not a witness in any case against Gurdev and Banti etc. No case consequent to the above stated quarrel was registered against Gurdev Singh etc. I was helping Avinash without any case. Avinash was my friend about two years back from the occurrence in question. I do not know that the accused Banti etc. had a case against the brother of Avinash. It is incorrect that a fight had ensued at Canter Union, Abohar in which I am an

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accused for the commission of an offence under Section 365 IPC. The name of my wife is Mrs. Paramjit Kaur who belongs to village Kalirawan. I have four children from her. They are Beant Kaur, Sukhdeep Kaur, Mandeep Kumar and Shivdayal Singh. The youngest child is aged 13 years. It is incorrect that Paramjit Kaur has filed a maintenance case against me. I have performed a second marriage. My second wife is Balwinder Kaur. Her parental house is Rupana in district Muktsar. My elder son from the second wife is aged 12 years. It is incorrect that I did not go to the parental house of my first wife on the above stated date as I had a dispute with her. It is incorrect that 2-3 cases under Excise Act are pending against me. In Delhi, we remained in the office itself. I use to go to Delhi every month. I had taken Vikramjit alongwith me. He had no other work. He is my friend since childhood. We came to know about the Gipsy at Chormar. It came from Sirsa side. Gipsy did not stop there. Chormar and Dabwali Mandi are having 30 kms. distance. If one has not to go to village Kalirawan, we could have directly entered Punjab via Dabwali Mandi. I was a witness against Gurdev Singh co-accused. In the said testimony I had stated that 2-3 criminal cases are against me. Volunteered. I have been acquitted in all those cases. The said cases are different from the cases, denied by me today. The said cases were civil in nature. (Confronted with portion A to A of Ex. D1, wherein it is so recorded). Abubshahar is 20 kms. from Dabwali Mandi. Fire was shot at me just after crossing Abubshahar. About one kilometer therein was a populated area. Rinku had given me blow from behind. It is correct that my statement Ex. P1 does not mention that I was taken out by the assailants after breaking the glasses. At the first place, I had received one injury. Vikram had escaped immediately upon the stopping of the car. I had not taken the keys of my car with me. The occurrence at second place continued for about 2-4 minutes. The blood might have fallen inside my car. I cannot say as to whether it had fallen on the earth or not. Upon the second place, the blood had fallen on the earth as I remained unconscious there for about two hours. I had not got the place of occurrence demarcated to the police. I do not know as to whether Vikram and my brother Boor Singh came to the spot or not. Boor Singh had told me that he had taken me from the place of occurrence upon a Gipsy. My statement was recorded at about 1.00 P.M. I had gained conscious at about 11.00 P.M. in the night on 8.11.2002. When I gain conscious, a Nurse was therein. Thereafter, Doctor called my brother Boor Singh. It is incorrect that actual

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occurrence had taken place near Nirankari Bhawan, Abohar with some other persons. I do not know Balbir Singh son of Bahadar Singh, resident of Abohar, Harmeet Singh son of Jaswant Singh, resident of Sunder Nagar, Abohar and Hardev Singh son of Rattan Singh, resident of Canal Colony, Abohar. I was not called in any inquiry upon an application made by Gurdev Singh son of Mahender Singh, brother of Banti. I do not know as to whether Renu wife of Gurdev Singh had filed an application for inquiring the occurrence in question. I also do not know that the DSP Dabwali found in the inquiry that the occurrence in question took place at Abohar in Punjab. It is incorrect that at the time of occurrence in question Gurdev was present in a hospital at Bathinda alongwith his wife. I do not know as to whether Gurdev etc. belong to Congress party and at that time, Congress party was in power in Punjab. I also do not know that in Haryana at that time, INLD was in power. It is incorrect that I am the worker of INLD and no such occurrence as alleged by me took place in Haryana. It is also incorrect that I falsely involved the accused in the instant case on exerting pressure of the INLD Govt. in Haryana. After the occurrence in question, Vikramjit continued coming with me upon the hearing of the instant case. It is wrong to suggest that I am deposing falsely. It is incorrect that in a case under Section 307, Pammi, brother of accused Rinku was a witness and he deposed in that case. We had to go to the Gurudwara but before that the Gipsy in question had crossed us. We took about five minutes in the Gurudwara. We reached Bathinda Chowk at about 6.15 P.M. It was evening. The Gipsy in question was standing at Dabwali after crossing Bathinda Chowk towards Malout. When we went there, we turned towards our left toward Abubshahar. We did not cross the circle. At the time of fire, no glass of the car was broken. I had stopped the car due to the fire shot. It was not dark but was slightly visible. I became unconscious after about ten minutes of the first injury. After I gained conscious, Vikram met me one and half months thereafter. I do not know as to who was the owner of the Gipsy. I do not know as to whether none of the accused is the owner of the Gipsy in question. Abohar is 60 kms. from Dabwali. It is incorrect to suggest that I am deposing falsely and no injury is caused to me by any of the accused.”

14(vii). In their statements recorded under Section 313 Cr.P.C., all the

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accused have taken similar stand. For brevity, the relevant portion of the statement of accused/appellant-Gurdev Singh, recorded under Section 313 Cr.P.C., is reproduced as under:-

“Q. Have you to say anything else?

Ans. I am innocent. Elections for the Post of MLA of Abohar Constituency were held in the month of February, 2002 in Punjab. Ram Kumar Goyal contested the election of MLA as a candidate of BJP Party. Sunil Jakhar contested the said election as a candidate of Congress Party whereas Sudhir Nagpal was an independent candidate who was the close friend of Abhey Singh Chautala. Abhey Singh Chautala helped Sudhir Nagpal in the said election and held many public meetings in the area. I and co-accused were against Sudhir Nagpal. I and other persons did not allow Abhey Singh Chautala to hold rally in City Abohar and that is why he was nursing a grudge against us. Balkar Singh, Avinash Chander and Boor Singh helped Sudhir Nagpal and took active part and they welcomed Abhey Singh Chautala in those rallies. I and Gurbakshish Singh are Commission Agents at Sabzi Mandi Abohar. I was elected as President of Sabzi Mandi, Abohar after defeating Avinash Narang who was earlier a President of Sabzi Mandi. Pawan Kumar my co-accused was elected as President of Rehri Union. Balkar Singh and Boor Singh also deal in sale and purchase of vegetables at Abohar and they are dead supporters of Avinash Narang. Balkar Singh and others were at Abohar on 4.11.2002. Balkar Singh took fight with Bunty alias Baldev Singh on Nirankari Road, near Bus Stand Abohar and he received some injuries in that occurrence at Abohar. After the fight Balkar Singh tried to run away in a car and his car struck with some rehri and rickshaw. Balkar Singh never went to Delhi on 29.10.2002 and was not returning from Delhi on 4.11.2002. It is a complete concocted story of the prosecution. On 1.11.2002 Balkar Singh went to Jail at Fazilka to see his friends Avtar Singh etc. and there is record in the jail to that effect. On 4.11.2002 after his fight with Bunty alias Baldev Singh, Balkar Singh came to Chautala and concocted the story of the present occurrence in the area of Police Station Sadar Dabwali due to political

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pressure and I and co-accused were falsely implicated in the present occurrence. The career of Balkar Singh complainant started with criminal activities. He is criminal by nature and is involved in many criminal cases.”

15(i). From a conjoint reading of aforementioned medical and ocular evidence, following position emerges:

- Balkar Singh, who had sustained injuries in the occurrence, and author of the FIR, fully corroborated the prosecution version while appearing in the witness box;
- He has specifically stated about infliction of injuries on his person by accused/appellants;
- Complainant/injured – Balkar Singh had sustained total four injuries, out of which Injury No. 1, i.e. *8cm x 1cm incised wound, bone deep across the base of nose, extending upto middle of both eyes*, was declared as grievous in nature and Injury Nos. 2 to 4 were simple;
- As per report of Radiologist, who radiologically examined Balkar Singh, there was fracture on his ‘*nasal bone*’;
- No doubt is left that occurrence in the present case did take place on 04.11.2002 between complainant/injured - Balkar Singh and accused/appellants;
- Admittedly there is old enmity between both the sides;
- Presence of the appellants at the spot and motive to cause injuries

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is well established; and

- Appellants have failed to prove that occurrence had, in fact, taken place in the area of Abohar (Punjab).

15(ii). In this view of the matter, I do not find any legal infirmity in the findings recorded by the learned Trial Court in the impugned judgment(s) of conviction, dated 13.09.2007 and 10.08.2010, respectively, and the same are affirmed. Furthermore, it is not a fit case to exercise inherent powers under Section 482 Cr.P.C. and to dispose of criminal appeals filed by the appellants, on the basis of compromise (Annexure A-1), i.e. by quashing FIR No. 198, dated 08.11.2002, under Sections 307, 365, 367, 148 & 149 IPC, and Section 25 of the Arms Act, registered at Police Station Sadar, Dabwali, District Sirsa, and all subsequent proceedings arising therefrom, including impugned judgment(s) of conviction, dated dated 13.09.2007 and 10.08.2010, respectively, & order(s) of sentence, dated 17.09.2007 & 14.08.2010, respectively, passed by learned Trial Court, and to acquit/discharge the appellants of the charges levelled against them. Consequently, Criminal Appeal Nos. CRA-S-1906-SB-2007; CRA-S-2009-SB-2007; and CRA-S-2020-SB-2010, qua conviction part, are dismissed.

16. Now coming to the sentence part, it is necessary to first notice the period of sentence undergone by the appellants, as per custody certificates available on record, and the same is compiled in a tabular form, as under:-

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Name of Appellant	Age at the time of conviction	Actual undergone period
Gora Singh @ Gurbaksh Singh	26 years	09 months 28 days
Gurdev Singh	32 years	01 year 05 months 01 days
Pawan Kumar @ Pammi	29 years	01 year 05 months 02 days
Rinku @ Sandeep	24 years	01 year 03 month 10 days
Baldev Singh @ Banti	27 years	01 year 08 days 14 days

17. Admitted facts, necessary to be taken into consideration, for the purpose of deciding quantum of sentence in the present case are that:-

- All the appellants have been convicted and sentenced under Sections 148, 324/149, 326/149, 307/149, & 367/149 IPC;
- No particular accused/appellant is convicted for causing grievous injury, by holding him guilty under Section 307 IPC;
- The maximum substantive sentence of 5 years has been awarded by learned Trial Court;
- As per custody certificates, the age of appellants was between 24 to 32 years at the time of their conviction.
- For the last about 20½ years, the appellants are facing the agony, i.e. after registration of the case vide FIR No. 198. dated 08.11.2002;
- Matter has been compromised between private parties and report dated 18.03.2020, has been received from learned Additional Sessions Judge, Fast Track Special Court, Sirsa, which is to this

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effect that all the affected parties have arrived at the compromise voluntarily, without force, coercion or undue influence and the compromise is genuine;

- Complainant/injured – Balkar Singh himself appeared in person before this Court, and admitted the factum of compromise;
- In compliance of the order dated 20.02.2020, passed by Co-ordinate Bench of this Court, the appellant(s) have already deposited Rs.87,500/- each (total Rs.1,75,000/-), in the account(s) of '*Welfare Centre for Persons with Speech and Hearing Impairment*', and '*Poor Patient Assistance Cell, Postgraduate Institute of Medical Education and Research, Chandigarh*'; and
- No fruitful purpose will be served by sending the appellants back to jail.

18. Accordingly, impugned order(s) of sentence, dated 17.09.2007 & 14.08.2010, respectively, passed by learned Trial Court, are modified, and the period of substantive sentence awarded by learned Trial Court is reduced to the extent of period already undergone by the appellants. However, there shall be no change in the fine amount imposed by the learned Trial Court.

19. With the above modification in the order(s) of sentence dated 17.09.2007 & 14.08.2010, passed by learned Trial Court, **Criminal Appeal Nos. CRA-S-1906-SB-2007, CRA-S-2009-SB-2007, & CRA-S-2020-SB-2010**, and other pending criminal miscellaneous application(s) therein, stand disposed of.

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20. So far as Criminal Revision Nos. CRR-2255-2007 and CRR-3182-2010, and other pending criminal miscellaneous application(s) therein, are concerned, in view of statement made by Mr. Baltej Singh Sidhu, learned Senior counsel for the petitioner/complainant – Balkar Singh, the same are disposed of as not pressed.

21. Registry is directed to send back original lower court record alongwith a copy of this judgment to learned Trial Court, for taking further steps with regard to the recovery of fine, if yet to be recovered from the appellants, and then to disburse the same as compensation, to the complainant/injured – Balkar Singh, as already ordered by the learned Trial Court itself, in accordance with law.

(SANJAY VASHISTH)
JUDGE

May 18, 2023

Pk Kapoor

Whether Speaking/Reasoned: YES/NO

Whether Reportable: YES/NO