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Pronouncement on: 22.05.2023

State of punjab ...Respondent

State of Punjab ...Respondent

Ram Lal and others ... Respondents

Mr. K.S. Dadwal, Advocate
for the complainant in CRA-S-2301-SB-2008, CRA-S-2310-SB-
2008 and for the petitioner in CRR-1974-2009.

N.S.Shekhawat J.

1. By way of this judgment, I shall dispose off three criminal cases i.e CRA-S-2301-SB-2008 titled as "***Ram Lal and others Vs. State of Punjab***", CRA-S-2310-SB-2008 titled as "***Harmanjit Singh@Romy Vs. State of Punjab*** and CRR-1974-2009 titled as "***Gurmit Singh Vs. Ram Lal and others***", as the same arise out of the common impugned judgment of conviction and order of sentence dated 03.11.2008, passed by the Court of Additional Sessions Judge, Jalandhar.
2. Criminal appeals No.CRA-S-2301-SB-2008 and CRA-S-2310-SB-2008 have been preferred by the appellants/accused to challenge their conviction and awarding of sentence in the following manner:-

Appellant Ram Lal @ Lalu In CRA-S-2301-SB-2008

Under Section 326/149 IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 325/149 IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 450 of IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.

Under Section 148 of IPC	To undergo one year imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 324/149 of IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 323 IPC	To undergo six months imprisonment.
Under Section 323/149 IPC	To undergo six months imprisonment.
Under Section 324/149 IPC	To undergo one year imprisonment and to pay a fine of Rs.250/- in default of payment of fine to further undergo rigorous imprisonment for three months.

Appellant Davinder Kumar@ Bobby In CRA-S-2301-SB-2008

Under Section 326/149 IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 325/149 IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 450 of IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default

	of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 148 of IPC	To undergo one year imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 324/149 of IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 323/149 IPC	To undergo six months imprisonment.
Under Section 324 IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine to further undergo rigorous imprisonment for three months.

Appellant Ashok kumar @ Bantu In CRA-S-2301-SB-2008

Under Section 326/149 IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 325/149 IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.

Under Section 450 of IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 148 of IPC	To undergo one year imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 324/149 of IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 323/149 IPC	To undergo six months imprisonment.
Under Section 324 IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine to further undergo rigorous imprisonment for three months.

Appellant Paramjit Kumar @Kaka In CRA-S-2301-SB-2008

Under Section 326/149 IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 325/149 IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 450 IPC	To undergo two years imprisonment and to pay fine of Rs.500/- in default of

	payment of fine to further undergo rigorous imprisonment for three months.
Under Section 148 of IPC	To undergo one year imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 324/149 of IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 323/149 IPC	To undergo six months imprisonment.
Under Section 323 IPC	To undergo six months imprisonment

Appellant Ravjot Singh @ Ravi In CRA-S-2301-SB-2008

Under Section 326 IPC	To undergo two years imprisonment and to pay fine of Rs.500/- in default of payment of fine to further undergo rigorous imprisonment for three months.
Under Section 325/149 IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.

Under Section 450 of IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 148 of IPC	To undergo one year imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 324 of IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 323/149 IPC	To undergo six months imprisonment.
Under Section 324/149 IPC	To undergo one year imprisonment and to pay a fine of Rs.250/- in default of payment of fine to further undergo rigorous imprisonment for three months.

Appellant Harmanjit Singh @ Romy In CRA-S-2310-SB-2008

Under Section 326/149 IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 325 IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 450 of IPC	To undergo two years imprisonment and to pay a fine of Rs.500,-/. In default

	of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 148 of IPC	To undergo one year imprisonment and to pay a fine of Rs.500,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 324/149 of IPC	To undergo one year imprisonment and to pay a fine of Rs.250,-/. In default of payment of fine, he shall further undergo rigorous imprisonment for three months.
Under Section 323/149 IPC	To undergo six months imprisonment.
Under Section 323 IPC	To undergo six months imprisonment.
Under Section 324/149 IPC	To undergo one year imprisonment and to pay a fine of Rs.250/- in default of payment of fine to further undergo rigorous imprisonment for three months.

3. At this stage, it also requires mention that during the pendency of the present appeal before this Court Ram [Lal@Lalu](#), appellant No.1 in criminal appeal No.CRA-S-2301-SB-2008 has expired and the appeal stands abated qua him. However, the remaining five appellants/accused have contested their appeals on merits. On the other hand, criminal revision No.CRR-1974-2009 has been filed by the complainant/ injured

for enhancement of the sentence awarded to the appellants/accused in the two connected cases. Since all the appeals arise out of the common impugned judgment of conviction and order of sentence, consequently all the appeals are being disposed of vide this common judgment only.

4. As per the case of the prosecution, on 05.07.2004, the husband of aunt (bua) of the complainant had expired and several persons had visited the house of the complainant for paying condolence. On that day, Paramjit@Kaka, Davinder Kumar@ Bobby, Ashok Kumar@Bantu and Ram Lal, all accused were standing outside the gate of the house of the complainant and they were requested by Jaswant Kaur, mother of Gurmit Singh (complainant) to stand somewhere else. On this all the four accused started abusing them and went away. After twenty minutes, all the four accused, accompanied by other two accused, Harmanjit@Romy and Ravjot Singh @Ravi returned there. The complainant and his other family members had bolted the door of their house from inside on noticing the accused, however, they started banging at their door with their weapons. The complainant did not open the door and all the accused entered into their house through the house of a neighbour and reached the courtyard of the house of the complainant using their staircase. Accused Ravi, Bantu and Bobby were armed with a sickle each, whereas accused Ram Lal, Kaka and Romi were armed with dandas. After reaching the courtyard, all the accused/appellants started assaulting the complainant. Ravi, accused gave a blow with his sickle and Ramlal & Kaka both

accused gave blows with their respective dandas on the back of the Gurmit Singh. Ravjot Singh @Ravi accused gave a blow with sickle on the person of Jaswant Kaur and her husband namely, Swaran Dass. After causing those injuries, the accused left from there through the main gate with their respective weapons. The injured were also shifted to the hospital by Darshan Singh, where they were medico-legally examined. With these broad averments, the FIR was registered on the basis of statement made by Gurmit Singh/complainant.

5. After conducting the investigation, the challan was presented against all the appellants. Since the offence under Section 450 IPC was triable by the Court of Sessions, the case was committed for trial to the Court of learned Sessions Judge, Jalandhar. Ultimately, after examining the final report under Section 173 Cr.PC, the charge under Sections 148, 459, 326, 325, 324, 323/149 IPC was ordered to be framed against all the appellants/accused. However, all the accused pleaded their innocence and opted for trial.

6. After the framing of the charges, the trial formally commenced before the learned Additional Sessions Judge and to prove the charge, the prosecution examined 12 witnesses. The prosecution examined PW-1 Dr. Kinderpal Banger, Medical Officer, PHC Adampur, who had medico-legally examined Jaswant Kaur wife of Swaran Dass and found the following injuries:-

1. *A lacerated wound 5 cm x 2 cm with under lined swelling on*

scalp in middle of the head slightly towards the left side. Stitching and antiseptic dressing done advised X-ray skull to exact nature of the injury . Injury kept under observation.

2. *A contusion over 5 cm area on scalp 5 cm to the right to the injury No.1.*

3. *A contusion over 6 cm area on ulnar aspect of the lower 1/3rd of right fore-arm. Movements are painful. Advised X-ray and injury kept under observation.*

4. *A lacerated wound 2 cm x 4 cm (Probe going deep) on back of the left fore-arm 4 cm below the elbow. Swelling over surrounding are with painful movement. Advised X-ray to access the exact nature of the wound and the injury kept under observation.*

He also examined Swaran Dass son of Bahadur Chand and found the following injuries on his person:-

1. *A contusion over upper surface of the right shoulder movements are painful. Advised X-ray left hand and injury kept under observation.*

2. *Swelling over the dorsem of the left hand. Movements are very painful, advixsed X-ray left hand and injury kept under observation.*

3. *An abrasion 3 cm x 1½ cm on the middle and outer aspect of the right upper arm.*

4. *A lacerated wound 3 cm x 1 ½ cm on the right fore-arm 4 cm below the elbow.*

5. *A lacerated wound 6 cm x 1 ½ cm on the back in the inter scapular area on the right side.*

On the same day, he also examined Gurmit Singh son of

Swaran Dass, complainant and found the following injuries on his person:-

- 1. An incised wound on the scalp on the centre, starting from the hair margin of fore-head and going backward measurements are 5cm x 2 ½ cm antiseptic dressing after stitching of the wound was done. Advised X-ray skull to access the exact nature of the wound. And injury kept under observation.*
- 2. Complainants of pain on the back on lower part on left side.*
- 3. Abrasion two in number 15 cm x 3 cm running parallel from back of the right shoulder upto the middle of backbone.*

7. The prosecution further examined PW-2 Gurmit Singh, injured/complainant, who supported the case of the prosecution, as mentioned in the FIR. Similarly, PW-3 Swaran Dass and PW-4 Jaswant Kaur, both injured also supported the case of the prosecution and deposed on similar lines. PW-5 HC Jaswant Singh was part of the initial investigation and supported the case of the prosecution. Darshan Singh, who claimed himself to be an eye witness and appeared as PW-7. The testimonies of PW-8 MHC Nirmal Singh and PW-9 Constable Som Nath are formal in nature. PW-10 Dr. Jasmeet Walia, Radiologist conducted the X-Ray of Jaswant Kaur and found the fracture on left elbow joint of Jaswant Kaur and proved his X-ray report as Ex.PI/1 and also exhibited skiagrams as Ex.PI/2 to 6. On the same day, he conducted X-Ray

examination for skull of Gurmeet Singh, but no fracture was seen. The X-ray report in this regard was Ex.PH/1. On the same day, he conducted X-ray of the injuries suffered by Swaran Dass and found the fracture of base of proximal phalanx left middle finger, fracture head fourth left metacarpal and fracture shaft fifth left metacarpal bone seen. X-ray report is Ex.PG/1 and also exhibited skiagrams Ex.PG/2. Dalip Singh Draftsman, exhibited the scaled site plan as Ex.PU prepared by him and appeared as PW-11. PW-12 ASI Ravi Dutt had conducted the investigation and submitted the facts in that regard.

8. After closure of the prosecution evidence, the statements of all the appellants were recorded under Section 313 Cr. PC and they pleaded their false implication. Rather it was stated that they were assaulted by the complainant side and a cross case was pending with regard to the said incident. To prove their defence, the accused examined DW-1 Dr.Sukhwinder Singh, who had medico-legally examined Paramjit Singh appellant and found the following injuries:-

- 1. Incised wound 2cm x 0.5 cm x1 cm present on the right side in his occipital surface of skull. The wound was bleeding and was placed 4 ½ cm over right ear.*
- 2. Contusion swelling measuring 3 cms in diameter on the deltoid surface of right arm. 3.5 cm below the shoulder joint.*

However, DW-1 Sukhwinder Singh clearly stated that on receipt of the report of X-ray both of the injuries on the person of Paramjit Singh, were

declared simple in nature.

9. I have heard the learned counsel for the parties and with their able assistance, I have gone through the trial Court record carefully.

10. Learned counsel for the appellants vehemently contended that there was delay of 3 days in registration of the FIR. The occurrence had taken place on 05.07.2004, whereas the matter was reported to the police on 08.07.2004, even though several persons were present in the house of the complainant and could have been reported the matter to the police. Learned counsel further contended that it was a case of version and cross version. In fact, the complainant side was the aggressor and caused serious injuries on the person of Paramjit Singh. The injuries were caused to the complainant side in self-defence and even till the conclusion of the trial, the prosecution could not explain the injury suffered by the Paramjit Singh, appellant. Learned counsel also referred to certain contradictions appearing in the statements of various prosecution witnesses. Countering the said submissions, learned State counsel assisted by learned counsel for the complainant vehemently argued that in the present case, delay in reporting the matter to the police already stood explained and the detailed findings have been recorded by the learned Trial Court. Apart from that, Paramjit Singh, appellant had suffered minor and superficial injuries and the prosecution was not obliged to prove the same.

11. Having considered the rival submissions made by learned

counsel for both the parties, I find that there is no substance in the arguments raised by learned counsel for the appellants. All the three injured i.e is PW-2 Gurmeet Singh, PW-3 Swaran Dass and PW-4 Jaswant Kaur were caused serious injuries by all the accused on 05.07.2004. Immediately, after the occurrence, the injured were shifted to the hospital by Darshan Singh, uncle of the complainant, where they were medico-legally examined. All the injuries have been proved by PW-1 Dr. Kinderpal Banger, who proved on record the medico-legal reports of all the three injured. However, the parties were known to each other and the injured refused to make a statement to PW-5 HC Jaswant Singh only due to the fact that the talks regarding compromise were going on between both the sides. In fact, the learned Trial Court has recorded valid reasons in this regard and the findings are liable to be upheld. The complainant side as well as the appellants were already known to each other since long and the respectables of the area and the friends normally intervene in such cases of fight between two groups and try to get the matter resolved amicably. Consequently, the delay of three days in reporting the matter to the police is liable to be ignored.

12. Moreover, it can never be stated that the injuries suffered by the three injured were self-suffered. Thus, the findings recorded by the learned Trial Court in this regard are upheld. Still further, from the testimony of DW-1 Dr. Sukhwinder Singh, it is apparent that Paramjit Singh, appellant had suffered two minor injuries. DW-1 Dr. Sukhwinder

Singh clearly stated that both the injuries were declared to be simple in nature after receipt of the report of the X-Ray, whereas from a perusal of the testimony of PW-1 Dr. Kinderpal Banger and PW-10 Dr. Jasmeet Walia, it is evident that the three injured had suffered several injuries on their persons including several fractures on vital parts of their bodies. Even the injuries as well as the MLRs have been duly proved on record. The X-ray report and the skiagrams have also been duly exhibited on record. Thus, the ocular version has been duly corroborated by the medical evidence and it has been rightly held that the prosecution is not obliged to explain the minor and superficial injuries suffered by Paramjit Singh, appellant. I have also gone through the findings recorded by the learned Trial Court and the learned Trial Court has correctly ignored the minor inconsistencies or contradictions appearing in the oral testimonies of the witnesses, who were rustic villagers and such minor inconsistencies are bound to appear in the statements of such truthful witnesses. Even learned Trial Court has discussed the entire evidence threadbare and has correctly appreciated the testimonies of all the prosecution witnesses and as a consequence, this Court does not find any ground to interfere with the impugned judgment of conviction and the impugned judgment is liable to be upheld by this Court.

13. However, from the record, it is apparent that the appellants are facing the agony of trial/appeal in the present case since July 2004 i.e for the last about 19 years. As per the custody certificate Ashok Kumar

@Bantu, Paramjit Kumar @ Kaka, Ravjot Singh@ Ravi [Singh@Ravi](#) and Harmanjit Singh @ Romy were never admitted in jail, where as Davinder Kumar @Boby had undergone 13 days of actual sentence. Even the three injured also belong to the same place and the occurrence had taken place at the spur of the moment. Thus, no purpose would be served by sending the appellants behind the bars after such a long period. The ends of justice would be served, in case the present appellants are ordered to be released on probation. Sequally, the impugned order of sentence is ordered to be modified to the extent that the present appellants shall undergo probation for a period of one year from today. However, the amount of fine is enhanced to Rs.50,000/- each, which shall be deposited by the present appellants with the Court of Ld. Chief Judicial Magistrate concerned within a period of three months from today, failing which the appellants shall undergo rigorous imprisonment for a period of six months. This Court further orders that the fine imposed shall be treated as compensation and the amount of compensation shall be shared by all the injured equally. With these modifications, both the appeals i.e. Criminal appeal No. CRA-S-2301-SB-2008 and CRA-S-2310-SB-2008 are partly allowed and the impugned judgment of conviction dated 03.11.2008, passed by the Additional Sessions Judge, Jalandhar is upheld, whereas the order of sentence is modified as indicated above and the amount of fine is enhanced Rs.50,000/- each, as mentioned above. With these directions, the appeal stands disposed off.

14. As regards the criminal revision bearing No. **CRR-1974-2009** is concerned, the injured/complainant Gurmit Singh has filed the present revision

against the accused for enhancement the sentence awarded to them. However, as per the provisions of Section 377, Cr.PC only the State Government has the right to prefer an appeal before this Court against the sentence on the ground of its inadequacy and the complainant has no right to file the same. Even otherwise, by way of the present judgment, the sentence awarded to the appellants have already been ordered to released on probation for a period of one year. In view of the above discussion, the revision petition stands dismissed.

15. All pending applications, if any, are also disposed off, accordingly.

16. Case property, if any, be dealt with, and destroyed after the expiry of period of limitation for filing the appeal, in accordance with law. The Trial Court record be sent back.

22.05.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No