

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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1)

CRA-S-374-SB-2008
Decided on : 31.05.2023

Karnail Singh and others

. . . Appellant(s)

Versus

State of Punjab and others

. . . Respondent(s)

2)

CRR-834-2009

Karnail Singh

. . . Appellant(s)

Versus

State of Punjab and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. A.K. Walia, Advocate
for the appellant(s) (in CRA-S-374-SB-2008),
for the petitioner(s) (in CRR-834-2009).

Mr. Anmol Singh Sandhu, AAG, Punjab.

Mr. Umesh Pandey, Advocate for
Mr. M.M. Pandey, Advocate,
For the respondent/complainant(s)/injured
(in CRA-S-374-SB-2008).

SANJAY VASHISTH, J. (Oral)

1. This judgment shall dispose of Criminal Appeal No. CRA-S-374-SB-2008 and Criminal Revision No. CRR-834-2009, as both are interconnected. CRA-S-374-SB-2008 has been filed against the judgment of conviction and order of sentence dated 31.01.2008, passed by learned Judge Special Court, Ludhiana, in Sessions Case No. 5 of 06.01.2003, arising out of FIR No. 192, dated 10.08.2002, under Sections 307, 326, 325, 323/34 of IPC, registered at Police Station Jagraon, Distt. Ludhiana.

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Whereas, CRR-834-2009 has been filed against the judgment of acquittal dated 31.01.2008, passed by learned Judge Special Court, Ludhiana, in Sessions Case No. 4 of 06.01.2003, arising out of cross-version under Sections 323, 324/34 of IPC, in FIR No.192, dated 10.08.2002, registered at Police Station Jagraon, Distt. Ludhiana. However, for the sake of brevity, the facts are being from CRA-S-374-SB-2008.

Criminal appeal was preferred by seven convicts/appellants, namely, (i) Karnail Singh, (ii) Gurnam Singh, (iii) Mukhtiar Singh, (iv) Darshan Singh, (v) Naib Singh, (vi) Jarnail Singh and (vii) Mohanjit Singh, challenging their conviction and sentence, whereas, revision petition has been instituted by the Karnail Singh (appellant no.1 in criminal appeal), against the judgment of acquittal passed by the learned Trial Court.

FACTS:

2. Story of the prosecution, as discussed in paragraph No.2 of the impugned judgment, is reproduced as under:-

“On 9.08.02, a wireless message was received at Police Post, Kaunke Kalan, P.S.Jagraon to the effect that Gurmail Singh, Sewak Singh sons of Amar Singh, Karnail Singh and Naib Singh sons of Saudagar Singh, residents of Village Rasoolpur have been admitted in Civil Hospital Jagraon, in an injured condition and Investigating officer be sent. Upon which, ASI Raminderjit Singh, in-charge PP. Kaunke Kalan alongwith other police officials went to Jagraon and obtained MLR of Gurmail Singh, Sewak Singh, Karnail Singh and Naib Singh from P.P. Bus Stand. Thereafter, he went to the Civil Hospital Jagraon and filed applications Ex. PW9/A and Ex. PW9/B for seeking opinion of the doctor as to the fitness of the injured Gurmail Singh and Sewak Singh respectively. On which, doctor vide his

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endorsement Ex.PW9/C and Ex. PW9/D declared Gurmail Singh and Sewak Singh unfit to make statement. Then again ASI Raminderjit Singh, who is the Investigating Officer of this case, went to Civil Hospital, Jagraon on 10.8.02 and again filed Jagraon application Ex. PW9/E and Ex.PW9/F for seeking opinion of the doctor as to the fitness of Gurmail Singh and Sewak Singh respectively to make a Statement. On which, doctor vide his endorsement Ex.PF and Ex. PG Declared Gurmail Singh and Sewak Singh fit to make the statement and thereupon I.O. recorded the statement of Gurmail Singh complainant, which in brief reads as under:-

That, complainant Gurmail Singh is resident of village Rasoolpur and is cultivator by profession and they are four brother and two sisters; that on 9.8.02, at about 8-00 A.M/. complainant's brother Sewak Singh went to the fields on cycle for taking meals for Bhaiyas (servants) and complainant was also going to the fields after Sewak Singh. When Mohanjit Singh son of Karnail Singh. Karnail Singh, Naib Singh and Jarnail Singh sons of Saudagar Singh were coming on a rehri (cart)loaded with green fodder and they surrounded complainant's brother in the way and Karnail Singh raised lalkara that Sewak Singh be not get escape today and then they took out weapons concealed in the green fodder. Mohanjit Singh armed with Dah, Karnail Singh armed with Kirpan, Naib Singh armed with Gandasa and Jarnail Singh armed with dang attacked Sewak Singh on which Sewak Singh threw his cycle and ran towards the complainant and then they both raised raula "Maar Ditta", which attracted Jinder Kaur wife of the complainant and his elder sister in law Malkiat Kaur wife of Bikkar Singh, who went on the roof of the house. Meanwhile, Mukhtiar Singh, Gurnam, Darshan Singh sons of Charan Singh also came there and

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surrounded Sewak Singh and then Mohanjit Singh gave a blow of dah from reverse Side, which hit on the left side of the head of sewak Singh. Mukhtiar Singh gave a dang blow and Sewak Singh raised his left arm in order to ward off the blow and the blow hit on the left arm of Sewak Singh due to which reason, Sewak Singh fell on the ground. Then Gurnam Singh gave blow of dang which hit on the right bicep of Sewak Singh. That complainant went forward to rescue his brother on which Karnail Singh gave a Kirpan blow on the head of complainant which hit on the right side of head of the complainant, Naib Singh gave a gandasas blow which hit on the right arm of complainant from its reverse side and then Jarnail Singh gave dang blow which hit on the left arm of complainant and Darshan Singh gave a blow of dah which hit on the right wrist joint of complainant from its reverse side. That, Jagpal Singh was also attracted to the spot due to raula and Jinder Kaur and Malkiat Kaur also came to the spot on which all the accused ran away alongwith their weapons; that Jagpal Singh member panchayat and father of complainant took the complainant and Sewak Singh to Civil Hospital, Jagraon where they were medicolegally examined; that the motive after the occurrence is that Mohanjit Singh alongwith other boys used to wait at the turning of the school and their act has been objected by the complainant and his brother and due to this reason, altercation had also taken place 2/3 times prior to the occurrence but the matter was compromised with the intervention of the panchayat, but accused kept grudge and caused the injures to the complainant and his brother and complainant requested for investigation of the case.”

3. On the basis of statement (Ex.PL) of injured/complainant –

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Gurmail Singh, formal FIR (Ex.PA/2) was registered under Sections 323, 341, 148, 149, 326, 325 of IPC. Thereafter, supplementary statement of said Gurmail Singh was recorded by ASI Raminderjit Singh (Investigating Officer of the case), and offence under Section 307 of IPC was added. During investigation, accused - Darshan Singh, Karnail Singh, Mukhtiar Singh, and Gurnam Singh were found innocent, and were kept in Column No.2 of the report under Section 173 Cr.P.C. After completion of investigation, challan against the remaining accused was presented in the Court of Ld. Illaqa Magistrate, who committed the case to the Court of Ld. Sessions Judge, Ludhiana.

4. After finding a *prima facie* case punishable under Sections 307/323/34 of IPC against accused Karnail Singh, Naib Singh and Mohanjit Singh, Ld. Addl. Sessions Judge, Ludhiana, vide order dated 03.02.2023, charge-sheeted them accordingly, wherein, they pleaded not guilty and claimed trial.

5. After examining the injured/complainant – Gurmail Singh as PW3, on an application, under Section 319 Cr.P.C., moved by the prosecution, remaining four accused were also summoned to face trial and later on, they were also charged for the same offences.

6. After evaluating the evidence and hearing both the sides, learned Trial Court has concluded in para No. 32 of the impugned judgment, dated 31.01.2008, as under:-

“32. In the light of my above discussion, the prosecution has succeeded in proving its case against all the accused. Therefore, all the accused are held guilty u/Ss 148, 307, 325 & 323 read with Section 149 IPC and are convicted thereunder

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accordingly. Let the accused be heard on the quantum of sentence.”

7. Vide order of even date i.e. 31.01.2008, passed by learned Trial Court, all the seven convicts (appellants herein) were ordered to undergo sentence as under:-

Name of convict/ appellant	Under Section	Sentence	Fine (in Rs.)	In Default
Karnail Singh	148 IPC	2 years	--	--
	307 IPC	5 years R.I.	2000	6 months R.I.
	325 r/w 149 IPC	1½ years R.I.	1000	3 months R.I.
	323 r/w 149 IPC	6 months	--	--
Gurnam Singh	148 IPC	2 years	--	--
	307 r/w 149 IPC	4 years R.I.	1000	3 months R.I.
	325 r/w 149 IPC	1½ years R.I.	1000	3 months R.I.
	323 IPC	6 months	--	--
Mukhtiar Singh	148 IPC	2 years	--	--
	307 r/w 149 IPC	4 years R.I.	1000	3 months R.I.
	325 IPC	2 years R.I.	1000	3 months R.I.
	323 r/w 149 IPC	6 months	--	--
Darshan Singh	148 IPC	2 years	--	--
	307 r/w 149 IPC	4 years R.I.	1000	3 months R.I.
	325 r/w 149 IPC	1½ years R.I.	1000	3 months R.I.
	323 IPC	6 months	--	--
Naib Singh	148 IPC	2 years	--	--
	307 r/w 149 IPC	4 years R.I.	1000	3 months R.I.
	325 r/w 149 IPC	1½ years R.I.	1000	3 months R.I.
	323 IPC	6 months	--	--

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Jarnail Singh	148 IPC	2 years	--	--
	307 r/w 149 IPC	4 years R.I.	1000	3 months R.I.
	325 r/w 149 IPC	1½ years R.I.	1000	3 months R.I.
	323 IPC	6 months	--	--
Mohanjit Singh	148 IPC	2 years	--	--
	307 r/w 149 IPC	4 years R.I.	1000	3 months R.I.
	325 r/w 149 IPC	1½ years R.I.	1000	3 months R.I.
	323 IPC	6 months	--	--

All the substantive sentences have been ordered to run concurrently.

8. Criminal appeal filed by the accused/appellants against the judgment of conviction and order of sentence dated 31.01.2008, was admitted vide order dated 20.02.2008. Sentence of appellants No.2, 3, 4 and 6 was suspended vide order dated 22.04.2008, whereas, sentence of appellants No.5 & 7 was suspended vide order dated 23.07.2008. Thereafter, sentence of remaining appellant No.1 was also suspended vide order dated 25.11.2008.

Revision petition filed by the Karnail Singh (accused/appellant No.1 in criminal appeal), was ordered to be heard with the criminal appeal, vide order dated 05.02.2010.

9. During the pendency of the appeal and revision petition, the appellants filed Criminal Miscellaneous Application Nos. CRM-13707-2023 for deciding the appeal by taking notice of compromise, CRM-14863-2023 for impleading complainant & injured as respondents in the memo of parties of the appeal, and CRM-14861-2023 in CRA-S-374-SB-2008 for quashing of

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the proceedings in view of compromise (Annexure A-1/T). Along with CRM-13707-2023, death certificate of accused-appellant No.4 – Darshan Singh (Annexure A-2), and a Certificate of disability (Annexure A-3) in respect of accused-appellant No.1, have also been filed.

10. While allowing the aforementioned applications, and taking up the main appeal for consideration, this Court passed the following order on 12.04.2023:-

“CRM-13707-2023

Prayer in the present application is for taking into consideration the compromise dated 15.03.2023 and then to decide the appeal.

Notice in the application.

On asking of the Court, Mr. J. S. Arora, DAG, Punjab, accepts notice on behalf of respondent No. 1-State. He does not raise any serious objection in allowing the prayer made in the present application.

In view of the above, compromise dated 15.03.2023, which is attached with the application, is ordered to be taken on record as Annexure A-1/T. Registry is directed to tag the same at appropriate place in the file.

Application stands disposed of.

CRM-14863-2023

Prayer in the present application is for impleading the complainant and injured as respondents No. 2 and 3 respectively in CRAS-374-SB-2008.

Notice in the application.

On asking of the Court, Mr. J. S. Arora, DAG, Punjab, accepts notice on behalf of respondent No. 1-State. He does not raise any serious objection in allowing the prayer made in the present application.

In view of the averments mentioned in the application,

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same is allowed. Consequently, complainant and injured are ordered to be impleaded as respondents No. 2 and 3 respectively in CRA-S-374-SB2008. Amended memo of parties, which is attached with the application, is taken on record. Registry is directed to tag the same at appropriate place.

Application stands disposed of.

CRM-14861-2023

Prayer in the present application is for quashing the FIR alongwith all consequential proceedings including the judgment of conviction dated 31.01.2008 passed by trial Court, on the basis of compromise dated 15.03.2023 affected between the parties.

Notice in the application.

On asking of the Court, Mr. J. S. Arora, DAG, Punjab, accepts notice on behalf of respondent No. 1-State.

At this stage, Mr. Umesh Pandey, Advocate, appears and files his vakalatnama on behalf of respondents No. 2 and 3. He admits execution of the compromise dated 15.03.2023 (Annexure A-1/T).

In view of the stand taken here-in above, affected parties are directed to appear before the learned Trial Court/Illaq Magistrate on 27.04.2023 or any other date convenient to the concerned Court, who shall record their respective statements with regard to the compromise and submit a detailed report in that regard along with copies of the statements to this Court on or before the adjourned date, containing the following information as well:-

- i. Total number of persons arrayed as accused in the case;*
- ii. Whether all the accused and complainant / victims are party to compromise;*
- iii. Whether any accused has been declared as a proclaimed offender or any such proceedings have*

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been initiated or pending decision;

iv. Stage of the trial/proceedings; and

v. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.

To come up on 31.05.2023, awaiting report.

Reply by the respondent-State, if any, be filed on or before the next date of hearing.

Photocopy of this order be placed on the file of other connected case.”

11. In compliance of the order dated 12.04.2023, both the parties appeared before learned Trial Court, and got recorded their statements. Report regarding genuineness of the compromise has been received from the Court of Ld. Sub-Divisional Judicial Magistrate, Jagraon, vide Memo. No. 394, dated 19.05.2023 (forwarded by learned District & Sessions Judge, Ludhiana, vide letter No.726/G/EC, dated 20.05.2023). The aforesaid report says as under:-

“I have the honour to hereby submit that, vide order 12.04.2023 passed in CRM-13707-2023, CRM-14863-2023 and CRM-14861-2023 in CRA-S-374-SB-2008 (O&M) in case titled as "Karnail Singh and others Vs State of Puniab and another) and CRR-834-2009 (O&M) Karnail Singh and others Vs State of Punjab and others, Hon'ble Punjab and Haryana High Court has directed the trial court to record the statements of compromise of the parties in the above-said petition and to submit the report as per the order of Hon'ble High Court. In compliance of the said order, petitioners namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Naib Singh, Jarnail Singh, Mohanjit Singh and respondent no. 2 Gurmail Singh and respondent no. 3 Sewak Singh got recorded their statements separately.

Petitioner No. 1 Kamail Singh suffered statement in the court that present FIR bearing No. 192 dated 10.08.2002, under sections 307, 326, 325, 323, 34, 148, 149 of Indian Penal Code, Police Station Jagraon (Rural) was registered on the basis of statement suffered by Gurmail Singh against him and others accused namely Gurnam Singh, Mukhtiar Singh, Darshan Singh (since deceased), Naib Singh, Jarnail Singh and

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Mohanjit Singh. Now with the intervention of respectable persons, he along-with other accused have compromised the matter with complainant Gurmail Singh and Sewak Singh injured. The compromise is genuine, voluntarily, out of free will and without any coercion or undue influence. Accused have not been declared proclaimed offenders in the present case and no proceedings against any accused qua proclaimed offender is pending or decided. He along-with other accused have already been convicted by Sh. A.K. Mehta, the then Ld. Additional Sessions Judge, Ludhiana vide order dated 31.02.2008 and appeal against the said order is pending before Hon'ble Punjab and Haryana High Court, Chandigarh bearing CRM Appeal No. 374-SB of 2008. So, it is requested by him that quashing petition filed by them may kindly be accepted by the Hon'ble High Court.

Petitioner No. 2 Gurnam Singh suffered statement in the court that present FIR bearing No. 192 dated 10.08.2002, under sections 307, 326, 325, 323, 34, 148, 149 of Indian Penal Code, Police Station Jagraon (Rural) was registered on the basis of statement suffered by Gurmail Singh against him and others accused namely Karnail Singh, Mukhtiar Singh, Darshan Singh(since deceased), Naib Singh, Jarnail Singh and Mohanjit Singh. Now with the intervention of respectable persons, he along-with other accused have compromised the matter with complainant Gurmail Singh and Sewak Singh injured. The compromise is genuine, voluntarily, out of free will and without any coercion or undue influence. Accused have not been declared proclaimed offenders in the present case and no proceedings against any accused qua proclaimed offender is pending or decided. He along-with other accused have already been convicted by Sh. A.K. Mehta, the then Ld. Additional Sessions Judge, Ludhiana vide order dated 31.02.2008 and appeal against the said order is pending before Hon'ble Punjab and Haryana High Court, Chandigarh bearing CRM Appeal No. 374-SB of 2008. So, it is requested by him that quashing petition filed by them may kindly be accepted by the Hon'ble High Court.

Petitioner No. 3 Mukhtiar Singh suffered statement that present FIR bearing No. 192 dated 10.08.2002, under sections 307, 326, 325, 323, 34, 148, 149 of Indian Penal Code, Police Station Jagraon (Rural) was registered on the basis of statement suffered by Gurmail Singh against him and others accused namely Karnail Singh, Gurnam Singh, Darshan Singh (since deceased), Naib Singh, Jarnail Singh and Mohanjit Singh. Now with the intervention of respectable persons, he along-with other accused have compromised the matter with complainant Gurmail Singh and Sewak Singh injured. The compromise is genuine, voluntarily, out of free will and without any coercion or undue influence. Accused have not been declared proclaimed offenders in the present case and no proceedings against any accused qua proclaimed offender is pending or decided. He along-with other accused have already

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been convicted by Sh. A.K. Mehta, the then Ld. Additional Sessions Judge, Ludhiana vide order dated 31.02.2008 and appeal against the said order is pending before Hon'ble Punjab and Haryana High Court, Chandigarh bearing CRM Appeal No. 374-SB of 2008. So, it is requested by him that quashing petition filed by them may kindly be accepted by the Hon'ble High Court.

Petitioner No. 4 Naib Singh suffered statement in the court that present FIR bearing No. 192 dated 10.08.2002, under sections 307, 326, 325, 323, 34, 148, 149 of Indian Penal Code, Police Station Jagraon (Rural) was registered on the basis of statement suffered by Gurmail Singh against him and others accused namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Darshan Singh(since deceased), Jarnail Singh and Mohanjit Singh. Now with the intervention of respectable persons, he along-with other accused have compromised the matter with complainant Gurmail Singh and Sewak Singh injured. The compromise is genuine, voluntarily, out of free will and without any coercion or undue influence. Accused have not been declared proclaimed offenders in the present case and no proceedings against any accused qua proclaimed offender is pending or decided. He along-with other accused have already been convicted by Sh. A.K. Mehta, the then Ld. Additional Sessions Judge, Ludhiana vide order dated 31.02.2008 and appeal against the said order is pending before Hon'ble Punjab and Haryana High Court, Chandigarh bearing CRM Appeal No. 374-SB of 2008. So, it is requested by him that quashing petition filed by them may kindly be accepted by the Hon'ble High Court.

Petitioner No. 5 Jarnail Singh suffered statement in the Court that present FIR bearing No. 192 dated 10.08.2002, under sections 307, 326, 325, 323, 34, 148, 149 of Indian Penal Code, Police Station Jagraon (Rural) was registered on the basis of statement suffered by Gurmail Singh against him and others accused namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Darshan Singh(since deceased), Naib Singh and Mohanjit Singh. Now with the intervention of respectable persons, he along-with other accused have compromised the matter with complainant Gurmail Singh and Sewak Singh injured. The compromise is genuine, voluntarily, out of free will and without any coercion or undue influence. Accused have not been declared proclaimed offenders in the present case and no proceedings against any accused qua proclaimed offender is pending or decided. He along-with other accused have already been convicted by Sh. A.K. Mehta, the then Ld. Additional Sessions Judge, Ludhiana vide order dated 31.02.2008 and appeal against the said order is pending before Hon'ble Punjab and Haryana High Court, Chandigarh bearing CRM Appeal No. 374-SB of 2008. So, it is requested by him that quashing petition filed by them may kindly be accepted by the Hon'ble High Court.

Petitioner No. 6 Mohanjit Singh suffered statement in the Court that present FIR bearing No. 192 dated 10.08.2002,

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under sections 307, 326, 325, 323, 34, 148, 149 of Indian Penal Code, Police Station Jagraon (Rural) was registered on the basis of statement suffered by Gurmail Singh against him and others accused namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Darshan Singh(since deceased), Naib Singh and Jarnail Singh. Now with the intervention of respectable persons, he along-with other accused have compromised the matter with complainant Gurmail Singh and Sewak Singh injured. The compromise is genuine, voluntarily, out of free will and without any coercion or undue influence. Accused have not been declared proclaimed offenders in the present case and no proceedings against any accused qua proclaimed offender is pending or decided. He along-with other accused have already been convicted by Sh. A.K. Mehta, the then Ld. Additional Sessions Judge, Ludhiana vide order dated 31.02.2008 and appeal against the said order is pending before Hon'ble Punjab and Haryana High Court, Chandigarh bearing CRM Appeal No. 374-SB of 2008. So, it is requested by him that quashing petition filed by them may kindly be accepted by the Hon'ble High Court.

Respondent No. 2 Gurmail Singh suffered statement in the Court that present FIR bearing No. 192 dated 10.08.2002, under sections 307, 326, 325, 323, 34, 148, 149 of Indian Penal Code, Police Station Jagraon (Rural) was registered on the basis of statement suffered by him against accused persons namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Darshan Singh(since deceased), Naib Singh, Jarail Singh and Mohanjit Singh. Now with the intervention of respectable persons, he has compromised the matter with accused persons namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Naib Singh, Jamail Singh and Mohanjit Singh. Accused have not been declared proclaimed offenders in the present case and no proceedings against any accused qua proclaimed offender is pending or decided. The compromise is genuine, voluntarily, out of free will and without any coercion or undue influence. He has no objection, if the quashing petition may kindly be allowed.

Respondent No. 3 Sewak Singh suffered statement in the Court that he is injured in the present case. FIR bearing No. 192 dated 10.08.2002, under sections 307, 326, 325, 323, 34, 148, 149 of Indian Penal Code, Police Station Jagraon (Rural) was registered on the basis of statement suffered by Gurmail Singh against accused persons namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Darshan Singh (since deceased), Naib Singh, Jamail Singh and Mohanjit Singh. Now with the intervention of respectable persons, he has compromised the matter with accused persons namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Naib Singh, Jarnail Singh and Mohanjit Singh. Accused have not been declared proclaimed offenders in the present case and no proceedings against any accused qua proclaimed offender is pending or decided. The compromise is genuine, voluntarily, out of free will

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and without any coercion or undue influence. He has no objection, if the quashing petition may kindly be allowed.

After going through the statements of the parties, this Court is satisfied that respondents No. 2 and 3 namely Gurmail Singh and Sewak Singh have effected compromise with petitioners namely Karail Singh, Gurnam Singh, Mukhtiar Singh, Naib Singh, Jarnail Singh and Mohanjit Singh with their own free will and without any coercion or pressure from any corner and same is found to be genuine.

Further, SI Kamaldeep Kaur suffered statement in the Court that at present, he is posted as Station House Officer, Police Station Hathur. As per record, the present case was registered on the statement of complainant Gurmail Singh against accused persons namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Darshan Singh, Naib Singh, Jarnail Singh and Mohanjit Singh. This case was decided on 31.01.2008 by the court of Sh. A.K. Mehta, then then Ld. Judge, Special Court, Ludhiana and all accused were convicted by the court. There are seven persons arrayed as accused in the FIR and no accused is proclaimed offender in the present case. One FIR No. 379 dated 15.11.2004 is registered against accused Darshan Singh and one FIR No. 49 dated 18.06.2000 is registered against accused Karnail Singh as per record and other accused are not involved in any other FIR at concerned Police Station.

So, the point-wise report as desired by Hon'ble Punjab and Haryana High Court is as follows:-

- i. As per the statements of the parties and investigating officer, there are seven persons namely Karnail Singh, Gurnam Singh, Mukhtiar Singh, Darshan Singh, Naib Singh, Jarnail Singh and Mohanjit Singh are arrayed as accused in the present case and accused Darshan Singh has been expired now.*
- ii. As per the statement of the parties, all the accused, complainant/victims are party to the compromise;*
- iii. As per the statement of the parties, accused have not been declared as proclaimed offender or any such proceedings have been initiated or pending against them.*
- iv. As per the statement suffered by the parties, all accused are convicted and appeal is pending before Hon'ble Punjab and Haryana High Court, Chandigarh.*
- v. The compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.*

Accordingly, report is being submitted to your good-self for further proceedings.”

SUBMISSIONS:

12. Mr. A.K. Walia, learned counsel for the appellants/petitioners submits that he has got instructions from his clients, not to challenge the judgment of conviction dated 31.01.2008, passed by learned Addl. Sessions Judge, Ludhiana. However, on the question of quantum of sentence, learned counsel for the appellants submits that occurrence/fight had taken place way back on 09.08.2002, i.e. almost 21 years back, between co-villagers, due to grudge on account of objection raised by the injured/complainants of standing of the accused-Mohanjit Singh along with other boys, who used to wait at the turning point of the school. Further submits that since the appellants have already undergone sufficient period of substantive sentence, no useful purpose will be served by sending them behind the bars again.

Referring to the report dated 19.05.2023, received from learned Sub-Divisional Judicial Magistrate, Jagraon, learned counsel submits that now better sense has prevailed, and with the intervention of well wishers of both the sides & respectable persons of the area, all the affected parties have already resolved their dispute amicably by entering into compromise (Annexure A-1/T), and both the parties are living peacefully with mutual respect and care for each other.

Learned counsel for the appellants, thus, prays that the appeal 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. 192, dated 10.08.2002, under Sections 307/323/325/326/34 of IPC, registered at Police Station Sadar Jagraon, Distt. Ludhiana; including the impugned judgment of conviction and order of sentence, dated 31.01.2008, passed by

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learned Trial Court may be quashed or appellants may be acquitted/discharged of the charges levelled against them.

13. Mr. Umesh Pandey, Advocate for Mr. M.M. Pandey, Advocate, for the respondent/complainant(s)/injured (in CRA-S-374-SB-2008), has not opposed the submission made by learned counsel for the appellants with regard to the compromise (Annexure A-1/T) and stated that the complainant/victim/injured have no objection in allowing the prayer made by learned counsel for the appellants.

In addition to this, learned counsel for the appellants submits that compensation amount has already been paid to respondents No.2 & 3. However, said fact has not been got recorded in the statements recorded by the parties, in pursuance to the compromise, and the order passed by this Court. Learned counsel also stated that the revision petition filed by Karnail Singh (appellant No.1), be also disposed of as not pressed, in view of the compromise arrived at between the private parties.

**ARGUMENTS BY LD. ASSISTANT ADVOCATE GENERAL FOR
THE STATE OF PUNJAB:-**

14. Mr. Anmol Singh Sandhu, learned Assistant Advocate General, Punjab, after going through the statements of affected parties and the report dated 19.05.2023, received from learned Sub-Divisional Judicial Magistrate, Jagraon, 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/T).

While opposing the submissions addressed on behalf of the

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appellants, learned State counsel submits that the prosecution has been able to prove the happening of occurrence and for the role attributed to respective appellants, they have been convicted and sentenced by the learned Trial Court by passing well reasoned judgment of conviction and order of sentence for the offences punishable under Sections 307, 325, 323, 148 of IPC. Prosecution has proved that accused were members of unlawful assembly with common object of causing injuries on the person of injured – Gurmail Singh and Sewak Singh (respondents No.2 & 3, respectively).

15. Learned State counsel also produced copies of the custody certificates dated 29.05.2023, showing the period of sentence undergone by the appellants in the present case. Said custody certificates, dated 29.05.2023, are taken on record and Registry is directed to tag the same at an appropriate place of the file.

16. 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 the other proceedings, or by acquittal/discharge of the appellants on the basis of compromise between the complainant and appellants.

ANALYSIS OF ARGUMENTS & CONCLUSION:-

17. I have heard learned counsel for the parties and with their able assistance gone through the record.

18. Since, the appellants have chosen, not to assail the judgment of conviction dated 31.01.2008 passed by learned Trial Court; the findings recorded therein are affirmed. Consequently, Criminal Appeal No. CRA-S374-SB-2008, qua conviction part, stands dismissed.

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19. Besides above, it has also come to the notice of this Court that appellant No.4 – Darshan Singh, has already expired on 20.10.2012, during the pendency of present appeal. In this regard, copy of death certificate of Darshan Singh dated 31.12.2012 (Anexure A-2), has already been placed on record. Even in the amended memo of parties placed on record, the factum of death of appellant No.4 - Darshan Singh, has been specifically mentioned.

Since the factum of death of appellant No.4 – Darshan Singh (in CRA-S-374-SB-2008), is not disputed, present appeal *qua* him stands abated. However, same would be subject to the terms & conditions, passed by this Court in **Shivji Ram @ Dimple Vs. State of Punjab, 2022 SCC Online P&H 3759** (Law Finder Doc Id # 2076392).

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

Name of Appellant	Age (as per their joint statement, dated 03.05.2023, recorded before learned SDJM, Jagraon)	Actual undergone period
Karnail Singh	75 years	10 months & 06 days
Gurnam Singh	66 years	02 months & 27 days
Mukhtiar Singh	69 years	02 months & 27 days
Naib Singh	63 years	05 months & 26 days
Jarnail Singh	73 years	02 months & 24 days
Mohanjit Singh	47 years	05 months & 26 days

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

I. Hon'ble the Supreme Court in the case of **Ramgopal and**

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another v. State of Madhya Pradesh, 2021 SCC Online SC 834, has held that '*criminal proceedings involving non-heinous offences or where offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has been concluded and appeal stands dismissed against conviction, under extraordinary powers enjoined upon the High Court under Section 482 Cr.P.C.*';

- II. In the case of State of Madhya Pradesh v. Laxmi Narayan and others, (2019) 5 SCC 688, it has been held by Hon'ble Apex Court that '*offence under Section 307 IPC falls in the category of heinous and serious offences and, so, is to be treated as crime against society and not against the individual alone. However, the High Court would not raise its decision merely because there is a mention of Section 307 IPC in the FIR or the charges framed under this provision. It is open to the High Court to examine as to whether the incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. In the same manner, it is required to be seen by the High Court as to whether power under Section 482 Cr.P.C. should be exercised to quash the proceedings on the basis of compromise or not.*';
- III. The occurrence had taken place way back on 09.08.2002 i.e., almost 21 years back;
- IV. Both the sides have amicably resolved their dispute. Amicable

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settlement amongst the parties has taken place not only *qua* criminal dispute, but also other disputes, as is evident from the compromise;

- V. Report dated 03.05.2023, has been received from learned Sub-Divisional Judicial Magistrate, Jagraon, regarding genuineness of the compromise;
- VI. For the last about 21 years, the appellants are facing the agony, i.e. after registration of the case vide FIR No. 192, dated 10.08.2002;
- VII. Since both the parties are co-villagers, it will be in the interest of justice that they are allowed to remain in harmony with each other; and
- VIII. No fruitful purpose will be served by sending the appellants back to jail.

22. Accordingly, impugned order of sentence, dated 31.01.2008, passed by learned Trial Court, is 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.

All the six appellants are burdened with the cost amount of Rs.6,000/- each (total Rs.36,000/-), in addition to the fine already imposed by the learned Trial Court, to be deposited before the learned Trial Court/Area Magistrate/Duty Magistrate, within a period of four weeks from the date of receipt of a certified copy of this judgment.

23. With the above modification in the order of sentence dated

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31.01.2008, passed by learned Trial Court, Criminal Appeal No. CRA-S-374-SB-2008 and pending criminal miscellaneous application(s), if any, stand disposed of.

24. In view of compromise, having been arrived at between the parties, Mr. A.K. Walia, learned counsel for the petitioner(s), submits that he does not want to press present revision petition. Accordingly, Criminal Revision No. CRR-834-2009 stands disposed of, as not pressed.

25. Registry is directed to send back original lower court record alongwith a copy of this judgment to learned Trial Court/Area Magistrate/Duty Magistrate, for taking further steps with regard to the recovery of fine, if yet to be recovered from the appellants, as well as the cost amount imposed by this Court, in accordance with law.

**(SANJAY VASHISTH)
JUDGE**

May 31, 2023

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No