

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

303

1)

**CRA-S-102-SB-2005 (O&M)
Decided on : 08.02.2023**

Chanan Singh and others

... Appellant(s)

Versus

State of Punjab

... Respondent(s)

2)

CRA-S-118-SB-2005 (O&M)

Gurvail Singh and others

... Appellant(s)

Versus

Karaj Singh and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. D.S. Pheruman, Advocate with
Mr. D.S. Mann, Advocate
for the appellant(s) (in CRA-S-102-SB-2005).

Mr. Amar Singh Sandhu, Advocate
for the appellant(s) (in CAR-S-118-SB-2005).

Mr. Vinay Kumar Gupta, AAG, Punjab.

SANJAY VASHISTH, J.

This judgment shall dispose of CRA-S-102-SB-2005 and CRA-S-118-SB-2005, which have been filed by the respective convicts in version and cross-version cases.

2. CRA-S-102-SB-2005, has been filed by appellants Chanan Singh, Bawa Singh, Sarwan Singh @ Sama, Bachittar Singh, and Karaj Singh, respectively, against the judgment of conviction and order of sentence dated 23.12.2004, passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Amritsar (for brevity 'Ld. Trial Court'), in Sessions Case No. 116 of 17.01.2000/08.06.2004. Accused/appellants were held guilty for

commission for the offences punishable under Sections 148, 450, 307, 326/149, 324/149, 324/149, 323/149, 328/149, 323/149, 323/149, 323/149 of IPC and each one of them were ordered to undergo sentence(s), as detailed in the following table:

Name of Convict	Under Section	Sentence	Fine	In Default
Chanan Singh	148 IPC	01 year RI		
	450 IPC	05 years RI	Rs. 500/-	02 months RI
	307 IPC	07 years RI	Rs. 1000/-	03 months RI
	326/149 IPC	03 years RI	Rs. 500/-	02 months RI
	324/149 IPC	02 years RI		
	324/149 IPC	02 years RI		
	323/149 IPC	01 year RI		
	328/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
Bawa Singh	148 IPC	01 year RI		
	450 IPC	05 years RI	Rs. 500/-	02 months RI
	307/149 IPC	07 years RI	Rs. 1000/-	03 months RI
	326/149 IPC	03 years RI	Rs. 500/-	02 months RI
	324 IPC	02 years RI		
	324/149 IPC	02 years RI		
	323/149 IPC	01 year RI		
	328/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
Sarwan Singh @ Sama	148 IPC	01 year RI		
	450 IPC	05 years RI	Rs. 500/-	02 months RI
	307/149 IPC	07 years RI	Rs. 1000/-	03 months RI
	326/149 IPC	03 years RI	Rs. 500/-	02 months RI

	324/149 IPC	02 years RI		
	324/149 IPC	02 years RI		
	323 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323 IPC	01 year RI		
	323 IPC	01 year RI		
Bachhittar Singh	148 IPC	01 year RI		
	450 IPC	05 years RI	Rs. 500/-	02 months RI
	307/149 IPC	07 years RI	Rs. 1000/-	03 months RI
	326/149 IPC	03 years RI	Rs. 500/-	02 months RI
	324/149 IPC	02 years RI		
	324/149 IPC	02 years RI		
	323 IPC	01 year RI		
	323 IPC	01 year RI		
	323 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
Karaz Singh	148 IPC	01 year RI		
	450 IPC	05 years RI	Rs. 500/-	02 months RI
	307/149 IPC	07 years RI	Rs. 1000/-	03 months RI
	326 IPC	03 years RI	Rs. 500/-	02 months RI
	324/149 IPC	02 years RI		
	324 IPC	02 years RI		
	323/149 IPC	01 year RI		
	328/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323/149 IPC	01 year RI		
	323/149 IPC	01 year RI		

All the sentences were ordered to run concurrently. The period of detention already undergone by the accused-appellants was ordered to be set off against the substantive sentence.

3. CRA-S-118-SB-2005, has been filed by appellants Gurvail Singh, Pargat Singh, Kulwinder Singh @ Manna, Baldev Singh @ Deba, and Sewa Singh, respectively, against the judgment of conviction and order of sentence dated 23.12.2004, passed by Ld. Trial Court, in Sessions Case No. 117 of 2002. Accused/appellants were held guilty for commission of offences punishable under Sections 148, 452, 326, 324/149, 323/149 of IPC and each one of them were ordered to undergo sentence(s), as detailed in the following table:

Name of Convict	Under Section	Sentence	Fine	In Default
Gurvail Singh	148 IPC	01 year RI		
	452 IPC	02 years RI	Rs. 500/-	02 months RI
	326 IPC	03 years RI	Rs. 500/-	02 months RI
	324/149 IPC	02 years RI		
	323/149 IPC	01 year RI		
Pargat Singh	148 IPC	01 year RI		
	452 IPC	02 years RI	Rs. 500/-	02 months RI
	326/149 IPC	03 years RI	Rs. 500/-	02 months RI
	324/149 IPC	02 years RI		
	323/149 IPC	01 year RI		
Kulwinder Singh @ Manna	148 IPC	01 year RI		
	452 IPC	02 years RI	Rs. 500/-	02 months RI
	326/149 IPC	03 years RI	Rs. 500/-	02 months RI
	324/149 IPC	02 years RI		
	323/149 IPC	01 year RI		
Baldev Singh @ Deba	148 IPC	01 year RI		
	452 IPC	02 years RI	Rs. 500/-	02 months RI
	326/149 IPC	03 years RI	Rs. 500/-	02 months RI
	324/149 IPC	02 years RI		
	323/149 IPC	01 year RI		

Sewa Singh	148 IPC	01 year RI		
	452 IPC	02 years RI	Rs. 500/-	02 months RI
	326/149 IPC	03 years RI	Rs. 500/-	02 months RI
	324/149 IPC	02 years RI		
	323/149 IPC	01 year RI		

All the sentences were ordered to run concurrently. The period of detention already undergone by the accused-appellants was ordered to be set off against the substantive sentence.

4. Counsel for the appellants in both the appeals, had earlier submitted that appellants in both the appeals are residents of the same place i.e. Village Amin Shah, Tehsil Patti, District Amritsar, and their houses are in neighbourhood of each other. Therefore, dispute amongst them have been resolved amicably with the help of respectables of the villages and their relatives. Accordingly, one compromise-deed dated 30.11.2015 was executed, and same has already been placed on record of the appeal(s). Contents of the said compromise-deed are reproduced as under:-

“COMPROMISE

*This deed of Compromise has been reduced into writing today
30.11.2015 in between:*

1. Chanan Singh son of Sh. Karaj Singh
2. Bawa Singh Son of Sh. Karaj Singh
3. Sarwan Singh @ Samma sons of Karaj Sing
4. Bachittar Singh son of Karaj Singhana
5. Karaj Singh son of Gurmej Singh

*All residents of Village Amishah District Amritsar, now Tarn
Taran (hereinafter called as Party No. 1).*

AND

1. Gurvail Singh (since deceased) son of Teja Singh through his
Legal Heirs:
 - i. Parkash Kaur (Widow)
 - ii. Kulwinder Singh @ Manna
 - iii. Sewa Singh
 - iv. Baldev Singh son of Gurvail Singh
 - v. Pargat Singh son of Gurvail Singh

All Residents of Village Amishah, District Amritsar, now Tarn Taran (hereinafter called as Party No. 2).

1. *That a Criminal case has been got registered against PartyNo. 1 by Baldev Singh out of PartyNo. 2 vide FIR No. 121 dtd 08.11.1999 under Section 307, 324, 323, 452, 148, 19 IPC Police Station Kharara in which three persons received injuries namely Gurvail Singh (deceased), Baldev Singh & Pargat Singh out of Party No. 2.*

2. *That a cross complaint was filed against Party No. 2 by Karaj Singh son of Gurmej Singh Party No. 1. As Karaj Singh and Sarwan Singh are the injured out of party No. 1. Both the cases were tried together, thereafter Party No. 2 was convicted by the Trial Court under Sections 326, 324, 323, 452, 148, 149 IPC by the Court of Additional Sessions Judge, Amritsar vide order dated 23.12.2004.*

3. *That Party No. 2 filed the criminal appeal against the order of conviction vide Criminal Appeal No. 118-SB of 2005 which is pending in this Hon'ble Court.*

4. *That Party No. 1 was also convicted by the same Court under Section 307, 326, 324, 323, 148, 149 IPC on the same day and the Party No. 1 also filed the appeal vide Criminal Appeal No. 102-SB of 2005 and both the appeals are admitted and pending in this Hon'ble Court.*

5. *That Party No. 1 & Party No. 2 belong to the same village and both the parties cultivating their land into their possession.*

6. *That because of a minor dispute a quarrel took place and by virtue of the same the party faction arose in the village and the party & community line by virtue of the same there was a division in the village and ultimately the respectable persons of the area as well as of the village intervened and the matter was compromised and both the parties being co-villagers and they have taken the oath in the Gurudwara of the Village that they shall live like friends & brothers and they shall not take the law into their hands in future and whatever the grudge in the mind of both the parties have been removed and matter has been settled amicably and both the parties have decided they are not to go for further litigation and to get the matter dropped from the Court by submitting the compromise deed in the Court.*

7. *That once both the parties had joined hands with each other and taken oath in the Gurdwara of the Village that they have already patched up the matter and there was no grudge either of the party and they will get the matter compromised in the court and they shall not pursue their respective appeal so that both the parties be acquitted honorably without any stigma against any person.*

8. *That Gurvail Singhas died and Parkash Kaur, Kulwinder Singh @ Manna and Sewa Singh alongwith Baldev Singh, Pargat Singh are the legal heirs of deceased Gurvail Singh, whereas Parkash Kaur, widow was not the accused in the Complaint case and there is no other legal heir of Gurvail Singh deceased and the other members of the Party No. 2 being the legal heir of Gurvail Singh has the right to affect the compromise with the Party No. 1 being the legal heir of Gurvail Singh deceased.*

9. *This compromise deed has been reduced into writing as a token as correctness today in the presence of the witnesses.*

<i>First Party</i>	<i>Second Party</i>
<i>1. Sd/- Chanan Singh son of Karaj Singh</i>	<i>1. Sd/- Parkash Kaur (Widow)</i>
<i>2. Sd/- Bawa Singh son of Sh. Karaj Singh</i>	<i>2. Sd/- Kulwinder Singh @ Manna</i>
<i>3. Sd/- Sarwan Singh @ Samma son of Karaj Singh</i>	<i>3. Sd/- Sewa Singh</i>
<i>4. Sd/- Bachittar Singh son of Karaj Singh</i>	<i>4. Sd/- Baldev Singh</i>
<i>5. Sd/- Karaj Singh son of Gurmej Singh</i>	<i>5. Sd/- Pargat Singh</i>
<i>Witnesses:</i>	<i>Witnesses:</i>
<i>1. Sd/- Satnam Singh son of Sukhdev Singh</i>	<i>1. Sd/- Risal Singh son of Teja Singh.</i>
<i>2. Sd/- Daswinder Singh son of Lahora Singh</i>	<i>2. Sd/- Pargat Singh son of Mahinder Singh</i>
<i>3. Sd/- Hakam Singh son of Jaswant Singh</i>	<i>3. Sd/- Sahab Singh son of Gian Singh</i>
<i>All residents of Village Amishah Tehsil Patti District Tarn Taran</i>	<i>All residents of Village Amishah Tehsil Patti District Tarn Taran.”</i>

Thereupon, statements of the parties were recorded, and a report was received by this Court in regard to the genuineness of the compromise between the parties.

5. When the matter was taken up for hearing on 12.12.2022, this Court realized that there is one consolidated report dated 02.04.2016,

submitted by Ld. Chief Judicial Magistrate, Amritsar, but it was not made clear whether said report pertains to both the cases i.e. version or cross-version. Thereupon, Ld. CJM, Amritsar, was directed to examine the statements recorded, and its report dated 02.04.2016, and then to report back to this office, as to whether compromise in both the cases have been effected or not, and if effected, whether same is genuine or not?

6. Observations expressed by the Court noticed in the order dated 12.12.2022, are reproduced as under:-

“On 09.11.2022, following order was passed:-

“On dated 18.02.2016, following order was passed:-

“It is stated that applicant-appellant No.1 Gurvail Singh in CRA No. S-118-SB of 2005 has died. The death certificate has been placed on record as Annexure-A-1 in CRM No. 973 of 2016. Therefore, the appeal i.e. CRA No. S-118-SB of 2005 qua Gurvail Singh (appellant No.1) stands abated.

Learned counsel for the parties state that both the parties have effected compromise in the cross case. Copy of the compromise has been placed on record as Annexure-A-2.

Let both the parties appear before the learned Chief Judicial Magistrate, Amritsar, who shall record the statements of both the parties and report back to this Court whether the compromise is genuine or without any pressure.

Report of the learned Chief Judicial Magistrate be awaited for 4.4.2016.

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

On the record of the case file, photocopy of the consolidated report sent through endorsement dated 02.04.2016, is available. From the report, it appears that in FIR case, statements of injured/complainant could not be recorded, and therefore, no comments were made by the Ld. CJM, Amritsar, in regard to the factum of compromise of all the parties in the FIR case.

Even, learned counsel for the appellants in both the appeals, make a joint request that let both the appeals be adjourned for a period of 10 days, to explain what more is required to be done for disposal of both the appeals, on the compromise of both the parties, which is recorded in the order dated 18.02.2016 also.

Adjourned to 12.12.2022.

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

Consolidated report dated 02.04.2016, submitted by CJM,

Amritsar, is also reproduced hereunder:-

“Consolidated Report

Complaint Case titled as Gurvail Singh & Others

In compliance with the order dated 18.02.2016, passed in CRM Nos. 971 to 973 of 2016 in CRA No. S-118-SB of 2005 (O/M) and CRM Nos. 824 and 825 of 2016 in CRA No. S-102-SB of 2005 (O/M), by Hon’ble Mr. Justice Kuldip Singh, Judge, Hon’ble High Court of Punjab & Haryana, Chandigarh, on 15.03.2016, the complainant Karaj Singh s/o Gurmej Singh s/o Jagat Singh, r/o Village Amin Shah, Tehsil Patti, District Amritsar, who has got registered captioned FIR against the petitioners namely Gurvail Singh (since deceased) s/o Teja Singh s/o Pala Singh, aged 57 years, Cultivator, Pargat Singh, aged 34 years, Govt. Employee, Kulwinder Singh @ Manna, aged 26 years, Driver, Baldev Singh @ Deba, aged 32 years, Driver ad Sewa Singh, aged 22 years, Cultivator; all sons of Gurvail Singh s/o Teja Singh, r/o Village Amin Shah, Tehsil Patti, District Amritsar, has come present in this Court & stated that the entire matter has been settled with the above said petitioners & he has no objection if the present FIR against the aforesaid petitioners be quashed. The aforementioned petitioners have also come present in this Court @ stated that petitioners Gurvail Singh was their father, who has since died & the dispute between them has been compromised.

From the statement of the parties, it transpires that parties have willfully settled their differences and reached at bonafide compromise without any pressure and the same seems to be genuine. Hence, the requisite report.

Case titled as Chanan Singh Etc. Vs. State of Punjab

In compliance with the order dated 18.02.2016, passed in CRM Nos. 971 to 973 of 2016 in CRA No. S-118-SB of 2005 (O/M) and CRM Nos. 824 and 825 of 2016 in CRA No. S-102-SB of 2005 (O/M), by Hon’ble Mr. Justice Kuldip Singh, Judge, Hon’ble High Court of Punjab & Haryana, Chandigarh, on 15.03.2016, the petitioners namely Chanan Singh, Bawa Singh, Sarwan Singh @ Sama, Bachittar Singh all sons of Karaj Singh and Karaj Singh s/o Gurmej Singh, scheduled caste, r/o village Aminshah, District Amritsar, against whom the captioned FIR was got registered by the complainants (whose names are not mentioned in the Memo of Parties of CRA No. 102-SB-2005), have come present in this Court @ stated that the entire matter has been settled with the complainants.

It is respectfully submitted that as per the statement of ASI Balwinder Singh, No.6/Tarn Taran, presently posted at Police Station Khalra, Tarn Taran, there are five aforementioned accused & three complainants namely Gurvail Singh s/o Teja Singh, Baldev Singh s/o Gurvail Singh and Pargat Singh, Caste Jat, r/o Aminshah, District Amritsar, in the present case/FIR.

It is further respectfully submitted that as the complainants have not get recorded their statements, in compliance of orders of Hon’ble High Court, regarding compromise, therefore, undersigned is unable to reach at the conclusion regarding genuineness/ingenuousness of settlement of the state case. Hence, the requisite report.”

Counsel appearing for the respective parties are ad idem to submit that in fact, all the concerned parties in both the cases

have already given their statements before the Court of Magistrate in the year 2016 itself, however, Ld. CJM, Amritsar, has failed to crystallize the statements separately of the complaint case as well as of the FIR case. Therefore, let the matter be again sent to the Court of Ld. CJM, Amritsar, for seeking clarification and then opinion over the compromise between the parties.

In view of the circumstances discussed hereinabove, Ld. CJM, Amritsar, is directed to examine the statements recorded and the consolidated report dated 02.04.2016 prepared thereupon, and to report back this Court as to whether compromise in both the cases have been effected or not, and if effected, whether same is genuine or not ?

It is also made clear that for the aforesaid purpose, counsel representing both the sides in both the cases, would ensure their presence before the Court of Ld. CJM, Amritsar, on 21.12.2022 or any other date convenient to the Court of LD. CJM, Amritsar, for making clarity on the issue.

For awaiting report of Ld. CJM, Amritsar, adjourned to 16.01.2023.

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

7. In compliance to the said orders, a report dated 04.02.2023, has been received from Ld. CJM, Amritsar, addressed to the Assistant Registrar (Criminal), Punjab and Haryana High Court at Chandigarh, which is reproduced hereunder:-

“No. 125 /

From

*Aashish Saldi, PCS,
Chief Judicial Magistrate,
Amritsar. UID No.PB0254.*

To

*The Asisstant Registrar (Criminal),
Hon’ble Punjab & Haryana High Court,
Chandigarh.*

(THROUGH PROPER CHANNEL)

Dated, Amritsar the 04/02/2023.

Subject: Report in CRA-S-102-SB-2005 (O&M) and CRA-S-118-SB-2205 (O&M) titled as Chanan Singh and Ors. vs. State of Punjab & Ors. (Pending for 07.02.2023.).

Respected Sir,

Kindly refer to the subject cited above.

It is respectfully submitted that vide order dated 12.12.2022 the Hon'ble High Court had sent the matter to this Court seeking clarification and opinion over the compromise between the parties. It has been further directed that this Court shall examine the statements recorded and the consolidated report dated 02.04.2016 prepared by the then Ld. Chief Judicial Magistrate, Amritsar, and to report back to the Hon'ble High Court as to whether the compromise in both the cases has been effected and if effected the same is genuine or not. It was further directed that counsel representing both the sides in both the cases would ensure their presence before the Court of CJM, Amritsar, for making clarification on the issue.

I have perused the statements of the parties recorded on 15.03.2016 and report sent on 02.04.2016 by the then Ld. Chief Judicial Magistrate, Amritsar, and submit my report as under :

Complaint case titled as Karaj Singh vs. Gurvail Singh & Ors.

With regard to complaint case No. 117/2002, the judgment dated 23.12.2004 is on the file which shows that the said complaint was filed by Karaj Singh against Gurvail Singh, Pargat Singh, Kulwinder Singh, Baldev Singh and Sewa Singh. In the said case the statements of complainant Karaj Singh as well as accused Pargat Singh, Kulwinder Singh, Baldev Singh and Sewa Singh were recorded by the then Ld. Chief Judicial Magistrate, Amritsar, on 15.03.2016 and in this regard the report was also submitted to the Hon'ble High Court that the parties have reached at bonafide compromise without any pressure which appears to be genuine.

From the statement recorded on 15.09.2016, the undersigned is of the opinion that compromise between the parties in

complaint No.117/02 is genuine and bonafide and without any coercion or undue influence from any corner.

In case titled as State of Punjab Vs. Chanan Singh etc.

With regard to the above said case the judgment dated 23.12.2004 passed by the Court of Shri M.S. Randhawa, Addl. Sessions Judge (Adhoc) Fast Track Court, Amritsar, is on the file and Chanan Singh son of Karaj Singh. Bawa Singh son of Karaj Singh, Sarwan Singh son of Karaj Singh, Bachittar Singh son of Karaj Singh and Karaj Singh son of Gurmej Singh were arrayed as accused in which the complainant was Baldev Singh and injured persons were Pargat Singh and Gurvail Singh.

*In the said case the statements of all the 05 accused were recorded on 15.03.2016 by the then Ld. CIM, Amritsar. However, the statement of complainant Baldev Singh and injured Pargat Singh and Gurvail Singh was not recorded. Counsel for the parties who appeared for assisting this Court had stated that the same appears to be an inadvertent mistake for the reason that on the said date Baldev Singh and Pargat Singh had appeared before this Court and had suffered their statement regarding compromise in complaint case which is cross-version of the present FIR. Perusal of file further goes to show that statement of Karaj Singh was recorded separately in the present FIR as complainant wherein he has stated that he has compromised the matter with Chanan Singh, Bawa Singh, Sarwan Singh, Bachittar Singh and Karaj Singh. **Copy of said statement is also sent to the Hon'ble High Court which is Mark X. The statement itself shows that the same is an inadvertent mistake for the reason that Karaj Singh himself was arrayed as accused and instead of recording statement of complainant Baldev Singh, the statement of Karaj Singh Mark X was recorded.***

Thus, to clarify the same the undersigned has recorded the statement of complainant Baldev Singh son of Gurvail Singh and Pargat Singh son of Gurvail Singh, who is injured in the FIR case, who have stated that on 15.03.2016 they appeared in the Court and recorded their statements in the complaint case as accused but their statement as complainant/injured in the FIR was not recorded. They further stated that they are complainant/injured in this case respectively. Their father Gurvail Singh has already died on 06.06.2015. On his (Baldev Singh) statement FIR No. 121 dated 08.11.1999 under Sections 307, 324, 323, 452, 148, 149 of Indian Penal Code. Police Station Khalra Amritsar was registered against

accused Chanan Singh, Bawa Singh, Sarwan Singh alias Samma, Bachittar Singh all sons of Karaj Singh, Karaj Singh son of Gurmej Singh resident of village Amishah District Amritsar now District Tarn Taran. Now, with the intervention of respectable persons, they have arrived at a compromise with the said accused persons voluntarily and without any kind of threat, fear or pressure. They have no objection if the said FIR is quashed against the said accused persons. They are making their statement today in the Court without any kind of pressure, coercion and fear.

Therefore, in view of the statement of complainant as well as injured and accused I am satisfied that compromise between the complainant and accused in the present FIR case i.e. FIR No. 121 dated 08.11.1999 under Sections 307, 324, 323, 452, 148, 149 of Indian Penal Code, Police Station Khalra Amritsar is genuine and valid, and without any coercion or undue influence from any corner.

Submitted please.

Yours faithfully,

*Sd/-
(Aashish Saldi)
Chief Judicial Magistrate,
Amritsar. UID No. PB0254."*

Thus, the aspect regarding the genuineness of compromise between the parties in view of the compromise-deed dated 30.11.2015, has been confirmed.

8. Learned counsel for the appellants in both the appeals have chosen not to waste time of the Court for the purpose of challenging the judgment(s) of conviction as recorded by Ld. Trial Court qua both version and cross-version, after conducting separate trials. However, both the sides expressed their desire that although, they have instructions to say for not challenging the conviction part, but a prayer be made for reduction of the sentences to the already undergone period by the respective appellants in both the appeals.

It is also argued by the arguing counsel in both the appeals that

none of the parties wants to see the other side inside jail, after such a long period, especially, when they have started living in the village peacefully, after forgetting all their past history of dispute(s).

9. On putting a question to the learned counsel for the appellants in CRA-S-118-SB-2005, as to how much sentence of all the appellants therein, have undergone in the said appeal, he very fairly submitted that from the day one in the complaint case (i.e. CRA-S-118-SB-2005), all the appellants were granted anticipatory bail/regular bail, and thus, none remained inside jail even for a single day.

However, it is pointed out that appellant No.1 – Gurvail Singh, and appellant No.3 – Kulwinder Singh @ Manna, have already expired during the pendency of present appeal(s), therefore, present appeal *qua* both the aforesaid appellants stands abated.

So far as, CRA-S-102-SB-2005, is concerned, Mr. D.S. Pheruman, learned counsel for the appellants has submitted that in the said appeal, all the five appellants have undergone sufficient period of custody inside jail.

10. On the other hand, Mr. Vinay Kumar Gupta, AAG, Punjab, has filed the custody certificates dated 15.01.2023, in respect of all the appellants (in CRA-S-102-SB-2005), in Court today, which are taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

Copies thereof have been handed over to the counsel for the appellants.

11. The relevant details of the aforesaid custody certificates is as under:-

- As per custody certificate, it is confirmed that appellant No.1 – Charan Singh, has completed his under trial custody period

of 05 years, 01 months and 14 days (actual custody) and in total 05 years, 04 months and 22 days (including remission), out of the maximum substantive sentence of 07 years, and there is no other case registered against the appellant.

- As per custody certificate, it is confirmed that appellant No.2 – Bawa Singh, has completed his under trial custody period of 00 years, 02 months and 20 days (actual custody) and in total 00 years, 11 months and 13 days (including remission), out of the maximum substantive sentence of 07 years, and there is no other case registered against the appellant.
- As per custody certificate, it is confirmed that appellant No.3 – Sarwan Singh @ Sama, has completed his under trial custody period of 00 years, 02 months and 14 days (actual custody) and in total 00 years, 11 months and 07 days (including remission), out of the maximum substantive sentence of 07 years, and there is no other case registered against the appellant.
- As per custody certificate, it is confirmed that appellant No.4 – Bachittar Singh, has completed his under trial custody period of 00 years, 02 months and 20 days (actual custody) and in total 00 years, 11 months and 13 days (including remission), out of the maximum substantive sentence of 07 years, and there is no other case registered against the appellant.
- As per custody certificate, it is confirmed that appellant No.5 – Karaj Singh, has completed his under trial custody period of 00 years, 02 months and 19 days (actual custody) and in total 00 years, 11 months and 12 days (including remission), out of the maximum substantive sentence of 07 years, and there is no other case registered against the appellant.

12. Now, learned counsel for the appellants in both the appeals are relying upon one and common judgment dated **13.12.2019**, passed by this Court in **CRA-S-1149-SB-2005 (O&M) & another case**, titled as, “**Balkar**

Singh and others Vs. State of Punjab”, and submits that in similar circumstances, where both sides after being convicted, and appeal being pending before the Court, same were disposed of, by reducing the sentence to already undergone by them, though, there was conviction under Sections 307 & 326 of IPC etc.

13. I have considered the submissions addressed by learned counsel for the appellants in both the appeals, and also heard learned State counsel, who does not dispute the custody period submitted by him in Court today. It is also noticed that in none of the custody certificates of the appellants (in CRA-S-102-SB-2005), appellants were found involved in any other criminal activity. Incident in the present appeals under consideration took place in the year 1999, and both the sides are residing in the neighbourhood of each other in the village. None of the counsel is in a position to point out any incident of fight between both the sides; two of the appellants i.e. appellant No.1 – Gurvail Singh and appellant No.3 – Kulwinder Singh @ Manna in CRA-S-118-SB-2005, have already expired during the pendency of present appeals; from the core of heart, none of the parties wants to see the other side in jail; report dated 04.02.2023 (supra), received from Ld. CJM, Amritsar, which is reproduced herein-above, suggests the compromise between all the concerned parties in the appeal(s) is genuine and willful; and respective appellants, who are alive, have already faced the agony of prosecution for more than 23 years, and at present they are in the phases of evening of their lives, who are also in talking terms with each other, this Court feels that nothing would be achieved by going against the spirit of the compromise, as desired by the parties in both the appeals.

14. This Court has also visualized the situation of sending the appellant(s) to undergo the remaining/some more period of sentence, but

have a strong realization that such an effort may disturb the peaceful atmosphere of the village, and especially for the generations from both the sides, who have grown up by this time.

These are the aspects to be taken into consideration i.e. looking for the better future of the appellants, before the Court as well as members of their next generation(s).

15. Keeping in view the facts and circumstances discussed herein-above, judgment of conviction(s) in both the appeals (CRA-S-102-SB-2005 & CRA-S-118-SB-2005), are hereby maintained, however, sentences period of the respective appellants is ordered to reduce to the period already undergone by them. However, sentence *qua* fine would remain intact without there being any change.

Since the factum of death of appellant No.1 – Gurvail Singh, and appellant No.3 – Kulwinder Singh @ Manna (in CRA-S-118-SB-2005), is not disputed, present appeal *qua* both the aforesaid appellants 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).

Both the aforementioned appeals are disposed of with aforesaid modifications.

Pending criminal miscellaneous application(s), if any, are also disposed of, accordingly.

**(SANJAY VASHISTH)
JUDGE**

February 08, 2023

J.Ram

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