

CRA-S-1241-SB-2005 (O&M) &
CRA-S-1282-SB-2005 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: April 13, 2023

1. CRA-S-1241-SB-2005 (O&M)

Raghbir Singh (since deceased) through LRs and others

...Appellants

Versus

State of Haryana

...Respondent

2. CRA-S-1282-SB-2005 (O&M)

Ramesh Kumar @ Polu (since deceased) through LRs and others

...Appellants

Versus

State of Haryana

...Respondent

CORAM: HON’BLE MR. JUSTICE SANJAY VASHISTH

Present:

For the appellant(s): Mr. Vikas Singh, Advocate, and
Mr. G.S. Gopera, Advocate,
(in CRA-S-1241-SB-2005)

Mr. Pardeep Solath, Advocate, and
Mr. Satbir Mor, Advocate
(in CRA-S-1282-SB-2005)

For the Respondent: Mr. Vikas Bhardwaj, AAG, Haryana.

SANJAY VASHISTH, J.

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1. By this judgment and order, I propose to dispose of two Criminal Appeal Nos. CRA-S-1241-SB-2005 and CRA-S-1282-SB-2005, which have arisen out of a case of version and cross-version, as detailed hereunder:

CRA-S-1241-SB-2005:

1(i). Impugning the judgment of conviction dated 09.07.2005 and order of sentence dated 12.07.2005, passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Kurukshetra, in Sessions Case No. 42 of 2004, instituted on 22.03.2002/08.04.2004, in case FIR No. 294, dated 29.11.2001, under Sections 148, 307, 323, and 506 read with 149 IPC, and Section 25 of the Arms Act, registered at Police Station Pehowa, all the seven convicts/appellants in the said sessions case filed this appeal. Their names are:

- (i) Raghbir Singh son of Mewa Singh;
- (ii) Chandi Ram son of Ramdia;
- (iii) Suraj Bhan son of Abhey Ram;
- (iv) Baljit Singh son of Banwari Lal;
- (v) Ramesh Kumar son of Raghbir Singh;
- (vi) Lakhwinder Singh @ Lakha son of Charan Singh; and
- (vii) Sanjeev Kumar son of Balbir Singh.

CRA-S-1282-SB-2005:

1(ii). Impugning separate judgment of conviction dated 09.07.2005 and separate order of sentence dated 12.07.2005, passed by learned Additional Sessions Judge (Adhoc), Fast Track Court, Kurukshetra, in Sessions Case No.

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45 of 2004, instituted on 22.05.2002/08.04.2004, as cross version, in case FIR No. 294, dated 29.11.2001, under Sections 148, 307, 323 read with 149 IPC, and Section 25 of the Arms Act, registered at Police Station Pehowa, all the six convicts/appellants in the said sessions case filed this appeal. Their names are:

- (i) Ramesh Kumar @ Polu son of Chhotu Ram;
- (ii) Subhash Chand son of Chhotu Ram;
- (iii) Darbara Singh son of Ballu Bajigar;
- (iv) Rulda Ram son of Niranjana Singh;
- (v) Randhir Singh son of Chhotu Ram; and
- (vi) Rishi Pal son of Sandal.

2. Facts shorn of unnecessary details as unfolded by prosecution version are as under:

Prosecution version in CRA-S-1282-SB-2005:

2(i). On 29.11.2001, statement of injured Sanjeev Kumar was recorded, which was to the effect that *he was agriculturist and their Dera adjoins the forest towards southern side of village Seonsar and their fields also adjoins the dera. On 28.11.2001, at about 12.00 noon, he and his father Balbir Singh were at their dera. Karambir and Dhan Singh had come to them for taking their tractor on rent. At that point of time, Randhir Singh, who was at a distance of 3 killas and holding double barrel gun; Ramesh alias Polu having a gun; Subhash having a lathi; Darbara Singh carrying a gandasi; Rulda Ram and Rishi Pal having lathis; started ploughing their (Sanjeev Kumar's) land with*

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the help of tractor in which the wheat crop was sown. Sanjeev Kumar and his father went for stopping the aggressor party and as soon as they reached near them, Rulda Ram and Rishi Pal raised a lalkara that he (Sanjeev Kumar) should be taught a lesson how he dared to stop their tractor and by saying so, Randhir Singh and Ramesh alias Polu fired at them with the intention to kill them and the gun shots hit his right arm and back. On hearing their noise, Dhan Singh and Karam Singh came from the dera to get Sanjeev Kumar free from the clutches of the assailants/accused. Injuries were also caused to Dhan Singh and Karam Singh. Sanjeev Kumar further stated that on receiving the gun shot injuries, he fell down on the earth. Darbara and Subhash also gave fists and slaps blows to his father. Karambir and Dhan Singh ran away from the spot. All the assailants/accused went from there after causing injuries to them. He and his father were taken to the hospital in a tractor-trolley where from he was referred to LNJP Hospital, Kurukshetra.

2(ii). After recording his statement, ASI Piara Singh made his endorsement on it and sent the same to police station on the basis of which present case was registered.

Prosecution version in CRA-S-1241-SB-2005:

2(iii). Further prosecution version is that on 29.11.2001, ASI Piara Singh alongwith other police officials, was coming back from LNJP Hospital, Kurukshetra, after investigation of case FIR No. 294, dated 29.11.2001, which

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was registered on the statement of Sanjeev Kumar. When he reached Pehowa Chowk, Constable Tejpal handed over him medical *ruqa* alongwith MLRs of Ramesh Kumar @ Polu, who was referred to LNJP Hospital, Kurukshetra. However, Ramesh Kumar @ Polu was not found admitted in the said hospital. On 30.11.2001, a V.T. message was received from CHC Kaithal, regarding admission of injured Ramesh Kumar @ Polu there.

2(iv). After Ramesh Kumar @ Polu was declared fit to make statement, ASI Piara Singh recorded his statement on 03.12.2001, to the effect that *he was resident of village Seonsar and in their village land measuring 12 acres of Gram Panchayat, was in illegal possession of Man Singh and Raghbir Singh. Randhir Singh, Ex-Sarpanch had got Raghbir Singh etc. dispossessed from the illegal possession of the said land about 11 years back and thereafter, trees were planted by the Forest Department. In order to take illegal possession of the land, Man Singh and others kept on uprooting and cutting the trees. Out of the above said land, land measuring 5¾ acres was given by the Panchayat on lease to Darbara Singh in an open auction.*

2(v). On 29.11.2001 around noon, Darbara Singh and his son Jamser visited Ramesh Kumar @ Polu and told that they wanted to plough the land, which was taken on lease, and took his tractor on hire basis. He alongwith his Ford Tractor accompanied them to plough the land. When they reached the above said land and started ploughing, Raghbir armed with Gandasi, Sanjeev armed with lathi, Lakha armed with single barrel gun, Baljit armed with lathi,

reached there from the dera of Balbir Singh. Chandi Ram gave a lalkara that a lesson be taught to them for cultivating the land, otherwise they will auction the remaining land, which was in their illegal possession. He also gave a lalkara to kill them. Lakha Singh fired from his .12 bore gun after aiming the same towards Darbara Singh with an intention to kill them. Darbara Singh made him to lie on the ground and in this way, he saved himself from the fire. The pellets of the fire hit Sanjeev Kumar. In the meantime, Raghbir hit him with a gandasi on the right side of his head. After receiving the gandasi blow, he fell down on the ground. In the meantime, Suraj Bhan hit him with a gandasi in the left arm. Ramesh also hit him with lathi on his left leg. Baljit fired several times from his country made pistol. Lakha also fired several times from his gun. Sanjeev Kumar also gave lalkara alongwith Chandi and Baljit saying that they should be killed. In the meantime, Chhotu Ram, Ajmer and Jaswinder reached there and save them from the accused.

2(vi). Statement of Ramesh Kumar @ Polu, was treated as a cross-version and accused (appellants in CRA-S-1241-SB-2005) were nominated in the same FIR No. 294, dated 29.11.2001.

3. Upon completion of investigation and other formalities, accused were challaned for commission of offences punishable under Sections 148, 307, 323 read with Section 149 IPC against, i.e. (i) Ramesh Kumar @ Polu, (ii) Subhash Chand, (iii) Darbara Singh, (iv) Rulda Ram, (v) Randhir Singh and (vi) Rishi Pal. Besides, charge for the offence punishable under Section 25 of

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the Arms Act was also framed against Ramesh Kumar @ Polu.

4. Other party, i.e. (i) Raghbir Singh, (ii) Chandi Ram, (iii) Suraj Bhan, (iv) Baljit Singh, (v) Ramesh Kumar, (vi) Lakhwinder Singh @ Lakha and (vii) Sanjeev Kumar were charged for commission of offences punishable under Sections 148, 506 and 307 read with Section 149 IPC. In addition, accused Lakhwinder Singh was also charged for the offence punishable under Section 25 of the Arms Act.

4(i). All the accused pleaded not guilty and claimed trial.

5. After conclusion of the trial, complete evidence was scanned by learned trial Court and came to the following conclusions:

5(i). Findings in Sessions Case No. 42 of 2004
[CRA-S-1241-SB-2005]:

- Both the parties admit the occurrence though giving different version of the mode and manner of occurrence, thus, occurrence stands fully proved;
- Intention as envisaged under Section 307 IPC is not proved on the part of the accused persons. Thus, they were not held guilty for the commission of offence under Section 307 IPC;
- Offence under Section 307 IPC is not proved, but it is a case where an offence punishable under Section 326 IPC is clearly made out;
- All the accused acted in unison with common object, causing grievous injury by deadly weapon, which is within the meaning of

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Section 326 IPC;

- Offence punishable under Section 326 read with Section 149 IPC is made out against all the accused;
- Offence punishable under Section 148 IPC is made out against all the accused;
- Offence punishable under Section 506 IPC is made out against all the accused;
- Offence punishable under Section 25 of the Arms Act is made out against accused Lakhwinder Singh; and
- In the net result, all the accused were held guilty and convicted for the offences punishable under Sections 148, 326, 506 read with Section 149 IPC, and in addition, accused Lakhwinder Singh was also held guilty and convicted for commission of offence under Section 25 of the Arms Act.

5(ii). Findings in Sessions Case No. 45 of 2004
[CRA-S-1282-SB-2005]:

- Occurrence stands fully proved;
- Offence punishable under Section 307 read with Section 149 IPC is clearly made out against all the accused;
- Offences punishable under Sections 148 and 323 read with Section 149 IPC is also made out. But no conviction has been recorded under Section 323 read with Section 149 IPC, in view of the fact that all the accused have been convicted for more serious

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offence under Section 307 read with Section 149 IPC;

- Offence punishable under Section 25 of the Arms Act is made out against accused Ramesh Kumar @ Polu; and
- In the net result, all the accused were held guilty and convicted for the offences punishable under Sections 148, 307 read with Section 149 IPC, and in addition, accused Ramesh Kumar @ Polu was also held guilty and convicted for commission of offence under Section 25 of the Arms Act.

6. Vide separate orders of sentence dated 12.07.2005, convict – appellant(s) were ordered to undergo following sentence:-

Appellants in CRA-S-1241-SB-2005:

Name of convict/ appellant	Under Section	Sentence	Fine	In Default
All convict/ appellants	148 IPC	1 year R.I. each	Rs.1000/- each	1 month R.I. each
All convict/ appellants	326 r/w149 IPC	4 years R.I. each	Rs. 4,000/- each	6 months R.I. each
All convict/ appellants	506 r/w 149 IPC	6 months R.I. each	Rs. 500/- each	15 days R.I. each
Lakhwinder Singh @ Lakha	25 of the Arms Act	3 years R.I.	Rs.3,000/-	4 months R.I.

Appellants in CRA-S-1282-SB-2005:

Name of convict/ appellant	Under Section	Sentence	Fine	In Default
All convict/	148 IPC	1 year R.I.	Rs.1000/-	1 month R.I.

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appellants		each	each	each
All convict/ appellants	307 r/w149 IPC	8 years R.I. each	Rs. 8,000/- each	6 months R.I. each
Ramesh Kumar @ Polu	25 of the Arms Act	3 years R.I.	Rs.3,000/-	4 months R.I.

7. CRA-S-1241-SB-2005 was admitted on 26.07.2005. Subsequently, vide order dated 28.10.2005, sentence of the appellants in said appeal was suspended and they were granted bail by this Court.

7(i). CRA-S-1282-SB-2005 was admitted on 01.08.2005. Subsequently, vide order(s) dated 28.10.2005/12/12/2005 appellants in said appeal were granted bail their sentence was also suspended.

8. During pendency of CRA-S-1241-SB-2005, appellant No. 1 – Raghbir Singh, expired on 07.06.2018, and his LR’s were ordered to be impleaded/brought on record, vide order dated 24.01.2020, passed in CRM-2427-2020 in CRA-S-1241-SB-2005.

8(i). Similarly, Ramesh Kumar @ Polu, Darbara Singh and Rishi Pal, i.e. appellant Nos. 1, 3 and 6 in CRA-S-1282-SB-2005, also expired on 15.05.2011, 03.04.2013 and 06.05.2011, respectively, and their LR’s were also ordered to be impleaded/brought on record, vide order dated 24.01.2020, passed in CRM Nos. 1693, 1702 and 1703 of 2020 in CRA-S-1282-SB-2005.

9. Appellants in CRA-S-1241-SB-2005 filed Criminal Miscellaneous Application No. CRM-45546-2018, under Section 482 Cr.P.C. seeking disposal of said appeal in view of compromise dated 04.09.2018 (Annexure A-1),

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effected between the parties.

9(i). Another application, bearing CRM-45342-20018 in CRA-S-1282-SB-2005, was also filed by other set of appellants, with a prayer to pass appropriate orders in main appeal, in view of compromise dated 04.09.2018 (Annexure A-1), between the parties.

9(ii). Vide separate orders dated 09.01.2019, passed in aforementioned applications, the parties were directed to appear before the Trial Court/Chief Judicial Magistrate, Kurukshetra, for recording of their statements qua the factum of compromise and the concerned Court was directed to send its report as regards authenticity and genuineness of compromise after recording statements of all the affected parties.

10. In compliance of the said order, all the parties appeared before learned Additional Sessions Judge, Kurukshetra, and got recorded their respective statements. Thereupon, learned Additional Sessions Judge, Kurukshetra, sent two separate reports dated 05/06.03.2019, in respective cases, recording his opinion that the affected parties have arrived at the compromise voluntarily, without force, coercion or undue influence and the compromise is genuine.

11. This is how, the matter has been taken up for its final conclusion.

12. Without addressing arguments on merits of the appeals or pointing out any legal infirmity in the impugned judgments of conviction, passed by learned Trial Court, learned counsel for the appellants confined their

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submissions to the compromise dated 04.09.2018 (Annexure A-1), arrived at between the parties. Learned counsel submit that over a land dispute, the occurrence had taken place between co-villagers more than 21 years back. After facing trial by both the parties, resulting into their conviction, now good sense prevailed amongst them due to intervention of respectable persons of the society. Thus, all the affected parties decided to resolve the dispute amicably by entering into compromise dated 04.09.2018 (Annexure A-1). Learned counsel further submit that now both the parties are having cordial relations with each other. As a matter of fact, said compromise has been executed between the parties, so that younger generation of both the families may also live peacefully and with mutual respect and care for each other. Learned counsel for the appellants, thus, prayed that these appeals may be disposed of keeping in view the intent of the compromise dated 04.09.2018 (Annexure A-1).

13. Another argument advanced by learned counsel for the appellants is that law is well settled in regard to compounding of offences/quashing of FIR even after conviction and/or during proceedings of the appeal against conviction pending in High Court/Sessions Court. In this regard, they have placed reliance on the judgment(s) of:

- i) Hon'ble the Supreme Court rendered in the cases of Narinder Singh and others v. State of Punjab and another, (2014) 6 SCC 466; and Ramgopal and another v. The State

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of Madhya Pradesh, 2021 SCC Online SC 834;

- ii) a Full Bench judgment of this Court in the case of Kulwinder Singh v. State of Punjab and another, 2007 (3) RCR (Criminal) 1052;
- iii) a Division Bench judgment of this Court in the case of Sube Singh and another v. State of Haryana and another, 2013 (4) RCR (Criminal) 102; and
- iv) a recent judgment passed by this Court in the case of Lakhbir Singh v. State of Punjab and another (CRA-S-2065-SB-2007, decided on 14.02.2023 : Law Finder Doc ID #2138925).

14. Mr. Vikas Bhardwaj, learned Assistant Advocate General, Haryana, after going through the statements and the report received from learned Court below, 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 appeals in view of the compromise dated 04.09.2018 (Annexure A-1).

14(i). While opposing the submissions addressed on behalf of the appellants, learned State counsel submits that it is proved that occurrence did take place and for the role attributed to respective appellants, they have been convicted and sentenced by the Trial Court by passing well reasoned judgments of conviction and orders of sentence.

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14(ii). Learned State counsel, while referring to the judgment of conviction dated 09.07.2005, passed by learned Trial Court in Sessions Case No. 45 of 2004 (which is subject matter of challenge in CRA-S-1282-SB-2005), submits that all the accused therein have been convicted and sentenced for the offence punishable under Section 307 read with Section 149 IPC, because it has been proved on record that they were member of unlawful assembly with common object of causing grievous injury with deadly weapons.

14(iii). Learned State counsel while referring to the custody certificates dated 04.05.2019 and 09.05.2019, available on record, also submits that other case(s) were also registered against Baljeet Singh, Ramesh Kumar & Sanjeev Kumar (appellant Nos. 4, 5 and 7 in CRA-S-1241-SB-2005) and Rulda Ram, Randhir Singh & Rishi Pal (appellant Nos. 4, 5 and 6 in CRA-S-1282-SB-2005).

14(iv). Learned State counsel, thus, submits that the appellants in these appeals deserve no leniency and these appeals cannot be disposed of by compounding of offences/quashing of FIR and consequential proceedings as also acquittal/discharge of the appellants on the basis of compromise dated dated 04.09.2018 (Annexure A-1), entered into between the private parties.

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

16. Out of the aforementioned convict/appellants, Raghbir Singh, appellant No. 1 in CRA-S-1241-SB-2005, expired on 07.06.2018 and Ramesh

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Kumar @ Polu, Darbara Singh and Rishi Pal, i.e. appellant Nos. 1, 3 and 6 in CRA-S-1282-SB-2005, expired on 15.05.2011, 03.04.2013 and 06.05.2011, respectively. Their LRs have already been brought on record.

16(i). Accordingly, appeals qua Raghbir Singh, appellant No. 1 in CRA-S-1241-SB-2005, and Ramesh Kumar @ Polu, Darbara Singh and Rishi Pal, i.e. appellant Nos. 1, 3 and 6 in CRA-S-1282-SB-2005, stand abated.

17. Issue involved in the present case is that once matter has been considered after appreciation of evidence by the learned Trial Court and appeals against the same are pending before Appellate Court, whether proceedings can be quashed/compounded/finished on the basis of compromise amongst the private parties.

18. Hon'ble the Supreme Court in **Narinder Singh's case (supra)** has considered in detail the aforementioned issue as also inherent power of High Court under Section 482 Cr.P.C. to quash criminal proceedings involving non-compoundable offences in view of compromise/settlement arrived at between the parties. In the said case, FIR was registered under Sections 307, 324, 323 and 34 IPC. A petition under Section 482 Cr.P.C. was filed before this Court seeking quashing of FIR on the basis of compromise entered into between the petitioners who were the accused in the FIR and the complainant. This Court refused to exercise its extraordinary discretion invoking the provisions of Section 482 Cr.P.C. on the ground that four injuries were suffered by the complainant and as per the opinion of the doctor, Injury 3 was serious in

nature.

19. After detailed discussion, in paragraph No. 29 of the judgment in **Narinder Singh's case (supra)**, Hon'ble the Supreme Court laid down certain principles/guidelines for the High Court so as to give adequate treatment to the settlement between the parties while exercising power under Section 482 Cr.P.C., while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Para 29 and 29.1 of the said judgment, being relevant, are reproduced as under:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.”

20. In relation to cases involving the offence punishable under Section 307 IPC, in para No. 29.6 of the judgment in **Narinder Singh's case (supra)**, Hon'ble Apex Court has held as under:-

29.6 Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the

individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether 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 proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship. (emphasis added)

21. In the case in hand, FIR No. 294, dated 29.11.2001, was lodged under Sections 148, 307, 323, 506 read with Section 149 IPC and Section 25 of the Arms Act. As already noticed above, after analyzing the evidence, learned Trial Court came to the conclusion that ingredients constituting an offence under Section 307 IPC are not proved against one set of accused, who are appellants in CRA-S-1241-SB-2005. However, other set of accused, who are appellants in CRA-S-1282-SB-2005, have been held guilty and convicted/sentenced for the offence punishable under Section 307 read with Section 149 IPC. For coming to the said conclusions, learned Trial Court has discussed relevant evidence produced on record by the prosecution. Learned counsel for the appellants could not point out any legal infirmity in the well

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reasoned findings recorded by learned Trial Court while convicting and sentencing the appellants. Rather, they have confined their submissions to the compromise dated 04.09.2018 (Annexure A-1), arrived at between the private parties.

21(i). Thus, after hearing learned counsel for the parties and examining complete set of evidence led by the prosecution, **I find no infirmity in the impugned judgments of conviction, dated 09.07.2005, passed by learned Trial Court and the same stand affirmed. Consequently, present appeals qua conviction part stand dismissed.**

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

Sentence undergone by appellants in CRA-S-1241-SB-2005:

Custody Certificate Dated	Name of Appellant	Actual undergone period	Any other case
23.01.2020	Raghbir Singh (since expired)	06 months 17 days	Nil
04.05.2019	Chandi Ram	05 months	Nil
09.05.2019	Suraj Bhan	05 months	Nil
04.05.2019	Baljit Singh	04 months 25 days	FIR No. 131/2004, U/s 379 IPC, Police Station Pehowa, District Kurukshetra.
04.05.2019	Ramesh Kumar	04 months 16 days	Court Complaint No. 373/10/2004, U/s 342, 364 & 506 IPC, Police

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			Station not applicable, District Kurukshetra.
04.05.2019	Lakhwinder Singh @ Lakha	04 months 13 days	Nil
04.05.2019	Sanjeev Kumar	04 months 25 days	FIR No. 92/2003, U/s 447, 427, 148, 149 & 506 IPC, Police Station Pehowa, District Kurukshetra.

Sentence undergone by appellants in CRA-S-1282-SB-2005:

Custody Certificate Dated	Name of Appellant	Actual undergone period	Any other case
24.07.2019	Ramesh Kumar @ Polu (since expired)	03 months 02 days	Nil
09.05.2019	Subhash Chand	05 months 06 days	Nil
09.05.2019	Darbara Singh (since expired)	05 months 11 days	Nil
09.05.2019	Rulda Ram	05 months 05 days	FIR No. 11, dated 10.01.2005, U/s 285, 323, 336, 34 & 506 IPC and S. 25 of the Arms Act, Police Station Pehowa, District Kurukshetra.
09.05.2019	Randhir Singh	03 months 24 days	FIR No. 141/2005, U/s 33 IF Act, District Kurukshetra.
09.05.2019	Rishi Pal (since expired)	04 months 24 days	FIR No. 67/1999, U/s 307 IPC, Police Station City, Kaithal, District Kaithal

23. These are two cross appeals. The admitted facts in the present appeals are that a fight had occurred between two groups of co-villagers. All

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the appellants in CRA-S-1241-SB-2005 were convicted and sentenced under Sections 148, 326 read with 149 and 506 read with 149 IPC and one of them, namely, Lakhwinder Singh @ Lakha was also convicted and sentenced under Section 25 of the Arms Act, whereas the other party, who are appellants in CRA-S-1282-SB-2005 were convicted and Sentenced under Sections 148 and 307 read with 149 IPC & one of them, i.e. Ramesh Kumar @ Polu (since expired) was also convicted and sentenced under Section 25 of the Arms Act.

23(i). The matter has been compromised and two separate reports dated 05/06.03.2019, to this effect have been received from Learned Additional Sessions Judge, Kurukshetra, recording his opinion that the affected parties have arrived at the compromise voluntarily, without force, coercion or undue influence and the compromise is genuine.

23(ii). Accordingly, impugned orders of sentence, dated 12.07.2005, passed by learned Trial Court in both the cases, i.e. Sessions Case No. 42 of 2004 and Sessions Case No. 45 of 2004, respectively, are modified and the period of **substantive sentence awarded by learned Trial Court is reduced to the extent of period already undergone by the respective appellant(s).**

23(iii). However, there shall be no change qua liability of payment of fine, by respective appellant(s) in both the appeals, who are alive, and where the appellant(s) has expired, the fine amount would be recoverable from their assets or Legal Representatives.

23(iv). It is further ordered that upon payment/recovery of total fine

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amount, 50% of the same in each of the case/appeal, shall be treated as compensation, to be paid/disbursed to the injured/victim persons **or** the Legal Representative(s), where injured/victim(s) has already expired, and same would be shared as per the entitlement of injured/victim(s).

24. By maintaining the judgment of conviction in both the appeals and with the above modification in the orders of sentence dated 12.07.2005, passed by learned Additional Sessions Judge (Adhoc) Fast Track Court, Kurukshetra, these **appeals and pending criminal miscellaneous application(s) stand disposed of.**

25. Registry is directed to send back original lower court record(s) alongwith a copy of this judgment to learned Trial Court, for taking further steps with regard to the recovery of fine, in accordance with law, if one chooses to recover.

(SANJAY VASHISTH)
JUDGE

April 13, 2023
Pkapoor

Whether Speaking/Reasoned: **YES/NO**
Whether Reportable: **YES/NO**