

CRA-S-2410-SB-2011 (O&M) &
CRA-S-2474-SB-2011 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: April 17, 2023

1. CRA-S-2410-SB-2011 (O&M)

Manpreet Singh

...Appellant

Versus

State of Punjab and others

...Respondents

2. CRA-S-2474-SB-2011 (O&M)

Jaspreet Singh @ Jassa

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON’BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. J.S. Bhandohal, Advocate,
for Mr. H.S. Dhindsa, Advocate,
for the appellant(s).

Mr. Anmol Singh Sandhu, AAG, Punjab.

Mr. Abhishek Sharma, Advocate,
for complainant & injured – respondent Nos. 2 and 3
(in both appeals).

SANJAY VASHISTH, J.

1. This judgment and order shall dispose of two Criminal Appeals,

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i.e. CRA-S-2410-SB-2011 and CRA-S-2474-SB-2011, filed by appellant(s) Manpreet Singh and Jaspreet Singh @ Jassa, respectively, impugning the judgment of conviction and order of sentence dated 19.08.2011, passed by learned Additional Sessions Judge, Fast Track Court, Ludhiana, in Sessions Case No. 5, dated 12.01.2006, RBT No. 056, dated 01.06.2009, in case FIR No. 266, dated 07.09.2005, under Sections 307, 452 and 34 IPC, registered at Police Station Payal.

Appellant-Manpreet Singh was convicted for the offence punishable under Section 307 read with Section 34 IPC and appellant-Jaspreet Singh @ Jassa was convicted for the offence punishable under Section 307 IPC. Both of them were also convicted under Section 452 IPC. Vide order of sentence dated 19.08.2011, they were ordered to undergo sentence as under:-

Name of convict/ appellant	Under Section	Sentence	Fine	In Default
Manpreet Singh	307 r/w 34 IPC	7 years R.I.	Rs.2,000/-	4 months R.I.
	452 IPC	5 years R.I.	Rs. 1,000/-	3 months R.I.
Jaspreet Singh @ Jassa	307 IPC	7 years R.I.	Rs.2,000/-	4 months R.I.
	452 IPC	5 years R.I.	Rs. 1,000/-	3 months R.I.

2. As per prosecution version, on 7.9.2005, ASI Ranjit Singh along with other police officials were present at Bus Stand, Payal in connection with patrol duty when Sukhdev Singh son of Gurbachan Singh came present and got recorded his statement to the effect that he is an agriculturist. After the death of his cousin Ajmer Singh, they got opened milk dairy for his nephew

Anupinder Singh. There is a Chauntra near their dairy. Jaspreet Singh son of Labh Singh, Motu son of Davinder Singh used to indulge in bad acts while sitting on the Chauntra. His nephew Anupinder Singh prevented them from sitting on the Chauntra as their bad acts were affecting their milk dairy business adversely. On 7.9.2005 at about 8.30 AM, when he along with his nephew Anupinder Singh were managing the collected milk at their dairy, Jaspreet Singh holding a *Churra* (knife) in his right hand along with Motu entered their dairy. Motu caught hold his nephew Anupinder Singh from arms and Jaspreet Singh inflicted *Churra* (knife) blow, held by him in his right hand, on heart side of his nephew Anupinder Singh, with an intention to kill him. His nephew Anupinder Singh got injured on the heart side and started bleeding. His nephew Anupinder Singh said that Jassa and Motu had inflicted the injury without any fault of him and his nephew fell on the ground. He was taking care of his nephew Anupinder Singh and in the meantime Jaspreet Singh alongwith *Churra* (knife) ran away from the spot. He raised alarm which attracted his other nephew Aman son of Gurcharan Singh at the spot and after making arrangement of the vehicle, they got Anupinder Singh admitted in Civil Hospital Payal. Keeping in view his critical condition, the Doctor referred him, and they got admitted his nephew at Dayanand Hospital, Ludhiana. His nephew was unconscious. His nephew Anupinder Singh had been injured by Jaspreet Singh and Motu with an intention to kill him as Anupinder Singh had forbidden them from doing objectionable acts while sitting on the Chauntra.

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3. After completion of investigation and other formalities, accused were challaned and charges for commission of offences punishable under Sections 307, 452 and 34 IPC were framed against them.

4. After conclusion of trial and discussing complete evidence, learned trial Court came to the following conclusion:-

“19. Thus from the evidence led by the prosecution, it stands clearly proved that the accused had caused injury on the person of Anupinder Singh inside the dairy on vital part of the body and thus the prosecution has successfully proved the charges against the accused beyond any shadow of reasonable doubt and as such I hold accused Jaspreet Singh guilty for the offence punishable U/s 307 IPC and accused Manpreet Singh for the offence punishable U/s 307 read with Section 34 IPC and I also held both the accused guilty for the offence punishable U/s 452 IPC and convict them for the same. Let the accused be heard on the question of sentence.”

Vide order of sentence dated 19.08.2011, convict – appellants were awarded sentence, as already noticed in opening para of this judgment. Hence, two separate appeals were filed by convict/appellants.

5. CRA-S-2410-SB-2011, filed by appellant Manpreet Singh, was admitted on 30.10.2012 and noticing the fact that he had already undergone one year and seven months sentence, his remaining sentence was suspended during pendency of the appeal.

CRA-S-2474-SB-2011, filed by Jaspreet Singh @ Jassa was admitted on 04.10.2011. Subsequently, vide order dated 04.04.2013, he was granted bail and his remaining sentence was also suspended during pendency of the appeal.

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6. Appellant(s) filed separate applications, bearing CRM-40755-2016 in CRA-S-2410-SB-2011 and CRM-40690-2016 in CRA-S-2474-SB-2011, seeking disposal of appeals on the basis of compromise dated 16.12.2021, arrived at between the affected parties. However, vide separate orders dated 16.01.2017, passed by a Co-ordinate Bench of this Court, the aforementioned applications were dismissed as withdrawn with liberty to the appellants to file separate petition(s) seeking quashment of the judgment of conviction on the basis of compromise within the framework of law.

7. Thereafter, appellant-Jaspreet Singh @ Jassa, filed CRM-M-49327-2017, under Section 482 Cr.P.C., seeking quashing of impugned judgment of conviction dated 19.08.2011, passed by the learned Trial Court, on the ground of compromise. When, said petition came up for consideration on 21.12.2017, private parties were directed to appear before the Illaqa Magistrate-Duty Magistrate/Trial Court, for recording of their statements and the concerned Court was to make its report. Report dated 30.01.2018, received from Trial Court was to the effect that injured-Anupinder Singh had gone abroad and his statement regarding the compromise was not recorded. Upon filing of CRM-5229-2020 in CRM-M-49327-2017, another opportunity was granted, vide order dated 12.02.2020, for recording of statement of injured-Anupinder Singh. After recording of statements of all the affected parties, including injured – Anupinder Singh, report was received from learned Additional Sessions Judge, Ludhiana, vide Memo. No. 105, dated 05.06.2020,

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which is available on the file of CRM-M-49327-2017. It seems that during Covid-19 period, hearing of CRM-M-49327-2017 could not take place. Eventually, when said petition was listed on 07.07.2022, the following order was passed:-

“ This petition was filed for quashing of the impugned judgment of conviction dated 19.08.2011 on the ground of compromise.

Learned counsel for the petitioner seeks permission to withdraw the petition with liberty to move an application in the pending appeal.

Dismissed as withdrawn with liberty as prayed for.”

8. Thereafter, appellants again filed separate applications, i.e. CRM-40611-2022 in CRA-S-2410-SB-2011 and CRM-28539-2022 in CRA-S-2474-2011, seeking disposal of appeals on the basis of compromise dated 16.12.2016, arrived at between the affected parties. Other than this, they also moved applications in respective appeals for impleadment of complainant/injured as party respondents, which were allowed vide orders dated 07.11.2022 and 02.03.2023. Accordingly, complainant – Sukhdev Singh and injured – Anupinder Singh were impleaded as respondent Nos. 2 and 3, respectively, in both the appeals.

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

10. Without addressing arguments on merits of the appeals or pointing out any legal infirmity in the impugned judgment of conviction, passed by learned Trial Court, learned counsel for the appellants confined his submissions to the compromise dated 16.12.2016, arrived at between the parties. Learned

counsel submits that the occurrence had taken place between co-villagers more than 17 years back. After trial and conviction of the appellants, good sense prevailed amongst private parties due to intervention of respectable persons of the society. Thus, all the affected parties decided to resolve their dispute amicably by entering into compromise dated 16.12.2016. Learned counsel further submits that now both the parties are having cordial relation with 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 16.12.2016.

11. Learned counsel for the complainant & injured, respondent Nos. 2 and 3, submits that he has instructions to state at the Bar not to oppose the prayer made on behalf of the appellants. He also admits the factum of compromise dated 16.12.2016, between the private parties.

12. Mr. Anmol Singh Sandhu, learned Assistant Advocate General, Punjab, 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 16.12.2016.

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 judgment of conviction and order of sentence.

Learned State counsel, while referring to the judgment of conviction dated 19.08.2011, passed by learned Trial Court, submits that appellant Jaspreet Singh @ Jassa has been convicted and sentenced for the offence punishable under Section 307, whereas appellant Manpreet Singh has been convicted and sentenced for the offence punishable under Section 307 read with Section 34 IPC, for causing grievous injury on vital part of the body of injured Anupinder Singh, and the doctor has declared the injury as dangerous to life.

Learned State counsel while referring to the custody certificate dated 16.04.2023 of appellant – Manpreet Singh, submits that another FIR No. 113, dated 13.11.2021, under Sections 406 and 498-A IPC, has been registered against him at Police Station, Women Cell, Ludhiana, wherein he is facing trial in the Court of learned Judicial Magistrate Ist Class, Ludhiana.

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 16.12.2016, entered into between the private parties.

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

14. Issue involved in the present case is that once matter has been considered after appreciation of evidence by the learned Trial Court and

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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.

15. 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.

16. 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.”

17. 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

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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)

18. In the case in hand, FIR No. 266, dated 07.09.2005, was lodged under Sections 307, 452 and 34 IPC. As already noticed above, after analyzing the evidence, learned Trial Court came to the conclusion that ingredients constituting an offence under Section 307 read with Section 34 IPC stand clearly proved, inasmuch as, accused (appellants herein) had caused injury on the person of injured Anupinder Singh on vital part of the body. For coming to the said conclusion, 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 reasoned findings recorded by learned Trial Court while convicting and sentencing the appellants. Rather, he has confined his submissions to the compromise dated 16.12.2016, arrived at between the private parties.

19. 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 judgment of conviction, dated 19.08.2011, passed by learned Trial Court and the same stand affirmed. Consequently, present appeals qua conviction part stand dismissed.**

20. Now coming to the sentence part, it is necessary to first notice the period of sentence undergone by respective appellants, as per custody

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certificates already available on record, and the same is compiled in a tabular form, as under:-

Custody Certificate Dated	Name of Appellant	Actual undergone period
16.04.2023	Manpreet Singh	01 year 07 months 03 days
10.04.2023	Jaspreet Singh @ Jassa	02 years 04 months 04 days

23. In the present case, more than 17 years back between co-villagers. Appellant – Manpreet Singh has been sentenced under Section 307 read with Section 34 and 452 IPC, whereas appellant – Jaspreet Singh @ Jassa has been sentenced under Section 307 & 452 IPC. The matter has been compromised and report dated 05.06.2020, to this effect have been received from learned Additional Sessions Judge, Ludhiana, recording his opinion that the affected parties have arrived at the compromise voluntarily, without force, coercion or undue influence and the compromise is genuine. Relevant portion of the said report is reproduced as under:-

“ In pursuance to order dated 12.02.2020, passed by the Hon’ble High Court, an application for recording statements of the parties; injured was moved. Consequently, injured Anupinder Singh and accused Jaspreet Singh and Manpreet Singh, appeared and got recorded their statements in this case on 20.02.2020 in the court of Sh. Jarnail Singh, Ld. Additional Sessions Judge (Duty), Ludhiana. Complainant Sukhdev Singh appeared alongwith Id. Counsel for applicant namely Sh. G.S. Dhaliwal, Advocate during virtual hearing of the case through Video Conference on 04.06.2020. He was identified by Id. Counsel for applicant. Complainant stated that matter has been compromised and he has no objection if FIR is quashed. Subsequently, one typed and signed statement of complainant was also received through e-mail. Please find enclosed herewith copies of statements of complainant Sukhdev Singh, injured Anupinder Singh and accused Jaspreet

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Singh and Manpreet Singh respectively.

*As per statement of Naib Court Constable Jagdeep Kaur No. 198/Khanna, recorded on 19.03.2020, there are only two accused namely **Jaspreet Singh** and **Manpreet Singh** in this case, who are not Proclaimed offenders and no proceedings, for declaring anyone as proclaimed offender, are pending in this case.*

From the statements of parties, recorded on 20.02.2020 and 04.06.2020 with regard to compromise, the parties in my opinion have compromised the matter without any pressure, undue influence, fraud or coercion. They have no objection, if the FIR No. 266 dated 07.09.2005 under Sections 307, 452 and 34 of Indian Penal Code, registered at Police Station Payal, District Ludhiana, is quashed against the accused persons. This court is satisfied about the genuineness as well as validity of the compromise effected by the parties. Hence, the requisite report is being submitted for kind perusal of your good self and further proceedings.”

Presently, appellant – Manpreet Singh is aged about 36 years and appellant – Jaspreet Singh @ Jassa is aged about 40 years, as per date of birth recorded in their Aadhaar Cards, available on record. Out of the maximum substantive sentence of 7 years, awarded by learned Trial Court, they have already undergone some part of the sentence, as already noticed above. Therefore, in the considered view of this Court, no useful purpose will be served in sending them back to jail.

24. Accordingly, impugned order of sentence, dated 19.08.2011, passed by learned Trial Court are modified and the period of **substantive sentence awarded by learned Trial Court is reduced to the extent of period already undergone by the appellants.**

25. Furthermore, considering the fact that injury was inflicted on vital part of the body of injured – Anupinder Singh, the total fine amount of

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Rs.3,000/- each, as imposed by learned Trial Court in the impugned order of sentence, is increased to Rs.25,000/- each. After deposit/recovery of the total fine amount of Rs.50,000/- from the appellants, a sum of Rs.30,000/- shall be paid to the victim/injured – Anupinder Singh (respondent No. 3) as compensation.

26. With the above modification in the order of sentence dated 19.08.2011, passed by learned Trial Court, these **appeals and pending criminal miscellaneous application(s), if any, stand disposed of.**

27. Registry is directed to send back original lower court record alongwith a copy of this judgment to learned Trial Court, for taking further steps with regard to the recovery of fine and release of compensation to victim/injured, in accordance with law.

(SANJAY VASHISTH)
JUDGE

April 17, 2023

Pk Kapoor

Whether Speaking/Reasoned: YES/~~NO~~

Whether Reportable: YES/~~NO~~