

CRM-34618-2022
in CRA-S-281-SB-2016 and other connected cases

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 21.03.2023

(1) CRM-34618-2022
in CRA-S-281-SB-2016

Jaswant Singh @ Ladi and ors.

... Applicant-Appellants

V/s

State of Haryana

...Respondent

(2) CRM-34672-2022
in CRA-S-283-SB-2016

Jujhar Singh @ Jonny and and ors.

... Applicant-Appellants

V/s

State of Haryana

...Respondent

(3) CRM-34592-2022
in CRA-S-284-SB-2016

Karnail Singh and ors.

... Applicant-Appellants

V/s

State of Haryana

...Respondent

(4) CRM-34593-2022
in CRA-S-285-SB-2016

Jeet Singh and ors.

... Applicant-Appellants

V/s

State of Haryana

...Respondent

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**(5) CRM-34596-2022
in CRA-S-286-SB-2016**

Manga Singh ... Applicant-Appellant
V/s

State of Haryana ...Respondent

**(6) CRM-34597-2022
in CRA-S-293-SB-2016**

Sukha Singh @ Sukhwant Singh ... Applicant-Appellant
V/s

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Jagdish Manchanda, Advocate,
with Mr. Nischal Chetanya Manchanda, Advocate,
for the applicant-appellant(s)
in all the cases.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana.

Mr. Gurpreet Jayaia, Advocate,
for the complainant.

JASJIT SINGH BEDI, J. (Oral)

**CRM-34618-2022, CRM-34672-2022, CRM-34592-2022, CRM-34593-
2022, CRM-34596-2022 and CRM-34597-2022 in the aforementioned
appeals**

The prayer in the aforementioned applications is for disposing
of the main six appeals in view of the compromise effected between the
parties on 19.07.2022.

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For the reasons mentioned in the applications, the main appeals are being taken up today itself for hearing.

CRA-S-281-SB-2016 and other connected apperals

Vide this common order, I propose to decide a bunch of six appeals bearing Nos. CRA-S-281-SB-2016 titled as ‘Jaswant Singh @ Laddi and others versus State of Haryana’, CRA-S-283-SB-2016 titled as ‘Jujhar Singh @ Jony and others versus State of Haryana’, CRA-S-284-SB-2016 titled as ‘Karnail Singh and others versus State of Haryana’, CRA-S-285-SB-2016 titled as ‘Jeet Singh and others versus State of Haryana’, CRA-S-286-SB-2016 titled as ‘Manga Singh versus State of Haryana’, CRA-S-293-SB-2016 titled as ‘Sukha Singh @ Sukhwant Singh versus State of Haryana’, against the judgment of conviction and order of sentence dated 23.12.2015/24.12.2015 whereby the accused-appellant have been convicted and sentenced as under:-

Name of the Convicts	Offence under Sections	Sentence RI/SI	Fine	RI/SI in default of payment of fine
Punjab Singh, Major Singh, Jujhar Singh, Kabul Singh, Gurvinder Singh, Karnail Singh, Hardeep Singh, Sahab Singh, Paramjeet Singh, Jaswant Singh, Swaran Singh Kuldeep Singh,	148 IPC	RI 03 months	Rs.500/- each	SI 01 month
	307 r/w 149 IPC	RI 03 years	Rs.5000/- each	SI 01 year
	325 r/w 149 IPC	RI 02 years	Rs.1000/- each	SI 03 months
	435 r/w 149 IPC	RI 02 years	Rs.1000/-each	SI 03 months
	447 r/w	RI 03 months		SI 01 month

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Arjun Singh, Gurpreet Singh, and Jeet Singh	149 IPC		Rs.500/- each	
Manga Singh and Sukha Singh148 IPC	RI 03 months	Rs.500/- each	SI 01 month	
	307 r/w 149 IPC	RI 05 years	Rs.5000/- each	SI 01 year
	325 r/w 149 IPC	RI 02 years	Rs.1000/- each	SI 03 months
	435 r/w 149 IPC	RI 02 years	Rs.1000/-	SI 03 months
	447 r/w 149 IPC	RI 03 months	Rs.500/- each	SI 01 month
In addition, Sukha Singh was convicted	27 of the Arms Act	RI 03 years	Rs.1000/-	SI 03 months

2. The brief facts of the case are that an FIR No.55 dated 12.05.2011 under Sections 148, 149, 323, 325, 435, 307, 506, 447 IPC and Section 27 of the Arms Act, 1959 at Police Station Jhansa came to be registered on the statement of Jarnail Singh. As per the case of the injured-complainant, he was an agriculturist having 07 acres of land and the adjoining land belonging to Charanjeet. There was a litigation between the parties and on 12..05.2011, while he (complainant) alongwith Sandeep Singh (his nephew), Gurmukh Singh (his cousin), Sinder Singh son of Mahender, Harpreet son of Karnail Singh, his wife-Balwinder Kaur and their servant were sitting near his tubewell in the fields of Charanjeet, two tractors, one carrying a trailer being driven by Kharka Singh son of Lakha Singh and another carrying a harrow being driven by an unknown person alongwith 20-

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25 persons armed with guns, lathis and gandasis came to the fields. They all started to set the wheat stock stored in the fields of Charanjeet on fire. When they (complainant party) resisted this act of the accused, then Swaran Singh son of Pyara Singh, Sukha Singh son of Bal Singh, Manga son of Daan Singh, Kabal Singh son of Bagicha Singh and Jeet Singh son of Balkar each carrying 12 bore gun, and Punjab Singh son of Balkar Singh, Deepa son of Jeet Singh, Sahab Singh, Karnail Singh, Gurvinder son of Satnam Singh, Harpreet Singh son of Lakha Singh each carrying .315 rifle alongwith Arjun Singh son of Shingara Singh and Ladi son of Dalip Singh both carrying gandasis and Major Singh son of Gurlal Singh, Balihar Singh son of Malak Singh, Paramjeet Singh son of Sher Singh, Jony son of Baba Singh and 3-4 other persons carrying lathis, battons and gandasies, launched an attack upon them (complainant-party).

In the occurrence, he (complainant) suffered injuries on his ankle and knee whereas Gurmukh Singh suffered injuries on his arms. It may be mentioned here that Gurmukh Singh has passed away during the course of the Trial.

3. An investigation was conducted and a report under Section 173 Cr.P.C. was submitted against the accused-Punjab Singh, Jeet Singh, Sukha Singh @ Sukhwant Singh, Arjun Singh, Manga Singh, Gurpreet Singh @ Kharka, Major Singh, Jujhar Singh @ Jony, Jaswant Singh @ Ladi, Swaran Singh, Kuldeep Singh @ Deepa, Paramjeet Singh @ Pamma and Gurvinder

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Thereafter, supplementary challans were submitted against the accused-Karnail Singh and Kabul Singh.

4. During the course of the Trial, an application under Section 319 Cr.P.C. was moved and pursuant thereto, Hardeep Singh, Sahab Singh and Balihar Singh came to be summoned as additional accused.

All the accused were charge-sheeted for commission of the offences punishable under Sections 148, 307, 325, 435, 506 read with Section 149 IPC.

5. Pursuant to the conclusion of the Trial, all the accused-appellants came to be convicted and sentenced as above.

6. Against the judgment of conviction and order of sentence the aforementioned six separate appeals came to be filed. During the course of the pendency of the said appeals, a compromise dated 19.07.2022 has been arrived at between the parties.

7. The learned counsel for the appellants contends that though the appellants have been convicted for having committed the offences in question, due to the intervention of the respectables as well as the relatives of both the parties, a compromise has been effected between the parties as they are the residents of the same village. He, therefore, prays that the sentence imposed upon the appellants be reduced to the period already undergone by them. He places reliance upon the judgment in the case of

‘Ishwar Singh versus State of Madhya Pradesh, 2009(1) RCR (Criminal)

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8. The learned counsel for the State has placed on record the custody certificates of the appellants dated 21.03.2023. He admits that a compromise has been effected between the parties.

9. The learned counsel for the complainant has admitted the factum of a compromise having been effected between the parties and states that he would have no objection if the sentence of the appellants in all the pending appeals is reduced to the period already undergone by them.

10. I have heard the learned counsel for the parties.

11. The Hon'ble Supreme Court in the case of "***Ishwar Singh versus State of Madhya Pradesh, 2009(1) RCR (Criminal) 1***", held as under:-

"10. An affidavit is also filed by the appellant-accused No. 1 in this Court. In paragraph 3, it is sated :

"The accused petitioner and the complainant Devi Singh are members of the same community and reside permanently in the same village and are also related to each other. Now the relations between the accused and the complainant and their families are cordial and there is no surviving dispute of any kind between the parties. Father of the accused, Shankarlalji is uncle of the complainant. He is very old and due to old age he needs to be looked after by his son i.e. accused Ishwar Singh. If Ishwar Singh is released from jail in view of the cordial relations between the parties, both the families would be able to live together peacefully without any ill will".

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11. It was, therefore, jointly prayed on behalf of the parties that the appellant may be released by treating the sentence already undergone by the appellant-accused as sufficient.

12. An affidavit is also filed by victim Devi Singh wherein he has stated that he is the complainant-injured. It is stated that the contents in the affidavit filed by appellant accused regarding compromise between accused No. 1 and the complainant are true. A prayer was made by the learned counsel for the parties to dispose of appeal on the basis of compromise between the parties.

13. Now, it cannot be gainsaid that an offence punishable under Section 307 Indian Penal Code is not a compoundable offence. Section 320 of the Code of Criminal Procedure, 1973 expressly states that no offence shall be compounded if it is not compoundable under the Code. At the same time, however, while dealing with such matters, this Court may take into account a relevant and important consideration about compromise between the parties for the purpose of reduction of sentence.

14. In Jetha Ram v. State of Rajasthan, (2006)9 SCC 255, Murugesan & Ors. v. Ganapathy Velar, (2001)10 SCC 504 and Ishwarlal v. State of M.P., JT 1988(3) SC 366(1), this Court, while taking into account the fact of compromise between the parties, reduced sentence imposed on the appellant-accused to already undergone, though the offences were not compoundable. But it was also stated that in Mahesh Chand v. State of Rajasthan, 1990(3) RCR (Criminal) 332, such offence was ordered to be compounded.

15. In our considered opinion, it would not be appropriate to order compounding of an offence not compoundable under the Code ignoring and keeping aside statutory provisions. In our judgment, however, limited submission of the learned counsel for the appellant deserves consideration that while

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imposing substantive sentence, the factum of compromise between the parties is indeed a relevant circumstance which, the Court may keep in mind.

16. In the instant case, the incident took place before more than fifteen years; the parties are residing in one and the same village and they are also relatives. The appellant was about 20 years of age at the time of commission of crime. It was his first offence. After conviction, the petitioner was taken into custody. During the pendency of appeal before the High Court, he was enlarged on bail but, after the decision of the High Court, he again surrendered and is in jail at present. Though he had applied for bail, the prayer was not granted and he is not released on bail. Considering the totality of facts and circumstances, in our opinion, ends of justice would be met if the sentence of imprisonment awarded to the appellant (Accused No. 1) is reduced to the period already undergone.

17. For the foregoing reasons, the appeal deserves to be partly allowed and accordingly allowed by maintaining the conviction recorded by the trial court and confirmed by the Appellate Court but by reducing the sentence already undergone by the appellant. The sentence of payment of fine is not disturbed. If the appellant has not paid the amount of fine, he will pay such amount within four weeks from today.

12. In the instant case, the occurrence is of the year 2011 i.e. 12 years ago. Both the parties belong to the same village and are neighbours. With the intervention of the respectables and relatives, a compromise has been effected between them. Therefore, considering the totality of facts and circumstances, the ends of justice would be met if the sentence of

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imprisonment awarded to the appellants is reduced to the period already undergone by them.

13. For the aforementioned reasons, these appeals are partly allowed and by maintaining the conviction recorded by the Trial Court, the sentence of the appellants is reduced to the period already undergone by them. The sentence of payment of fine is not disturbed. If the appellants have not paid the amount of fine, they shall do so within a period of 04 weeks from the date of receipt of copy of this order.

14. Since the accused-appellant Karnail Singh is stated to have died, the proceedings qua him stand abated.

15. These appeals stand disposed of accordingly.

March 21, 2023
sukhpreet

(JASJIT SINGH BEDI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No