

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

**CRA-S-521-SB-2004 (O&M)**

**Reserved on:24.11.2022**

**Date of Decision:31.01.2023**

|                          |        |                |
|--------------------------|--------|----------------|
| Mohandeep Singh @ Mohini | Versus | ...Appellant   |
| State of Punjab          |        | ... Respondent |

**CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Mr. Narinder Singh, Advocate  
for the appellant.

Mr. Vinod Ghai, Advocate General, Punjab with  
Mr. Vipin Pal Yadav, Addl. A.G., Punjab.

**N.S.SHEKHAWAT, J.**

Feeling aggrieved of the impugned judgment of conviction and order of sentence dated 19.01.2004 passed by the Court of learned Additional Sessions Judge, Mansa, whereby, the appellant was convicted under Section 307 of IPC and Section 25 of the Arms Act and was sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs. 1,000/- under Section 307 IPC and rigorous imprisonment for three years and to pay a fine of Rs. 1000/- under Section 25 of the Arms Act alongwith default stipulation, the appellant had preferred the present appeal before this Court.

The prosecution in the present case was launched on the basis of statement made by injured Satpal Singh to ASI Ajaib Singh, Police Station Boha. The complainant stated that about 20 days prior to the date of occurrence, they had gone to their field for turn of their canal water for irrigating their fields as their turn was to commence after the turn of Mohandeep Singh @ Mohini (accused). A dispute

arose between the complainant and the accused regarding turn of the water and there was exchange of hot arguments between them and both the sides grappled with each other. At about 06.00 p.m. on 09.05.2001, the complainant alongwith his brother Haripal Singh and father Harbans Singh were preparing a heap of chaff. The accused came and started abusing them. Haripal Singh and the accused grappled with each other and they were separated and the accused went away. After some time, the accused came back with 12 bore SBBL licenced gun, which belonged to Balwinder Singh, his father's elder brother and raised a *lalkara* and fired on them with an intention to kill them. The complainant suffered pellet injuries on the front of his leg, knees, chest and he fell down and similarly his brother Haripal Singh, another injured also suffered injuries on his thigh, knee and one pellet also struck his chest. Harbans Singh, father of the complainant was present at the spot and had witnessed the occurrence; they raised the noise to save them and the accused fled from the spot with his weapon. Mohinder Singh, his grand-father reached at the spot and get them admitted in the Civil Hospital, Mansa, where the statement of the complainant was recorded by ASI Ajaib Singh. With these broad allegations, the complainant got the FIR registered.

After necessary investigation, the challan was presented against the present appellant under Section 307 IPC and Section 25 of the Arms Act and taking into account the incriminating evidence, the

trial Court ordered framing of charge against the appellant under Section 307 IPC read with Section 25 of the Arms Act.

During the course of trial, the prosecution examined 15 witnesses to prove the charge against the present appellant.

After the closure of the prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C. and the incriminating circumstances appearing against him were put to him in his statement under Section 313 Cr.P.C. and he pleaded his false implication by the complainant side. He further stated that no such occurrence had ever taken place. He also examined DW1 Chanan Singh, Reader to SDO, Bhaini Irrigation Department and DW2 Amrik Singh to show that there was no motive on the part of the accused to commit the crime. He also produced in defence Ex.D1 and Ex.D2, i.e. the copies of '*Barabandi*', in which, there was no mention of turn of the complainant party to have canal water from the water channel, at the relevant time.

I have heard the learned counsel for the parties and with their able assistance, I have gone through the trial Court record carefully.

The learned counsel for the appellant vehemently argued that there was delay of more than 20 hours in lodging the FIR in the present case, which was utilized by the prosecution in coining a false version, just to ensure the false implication of the present appellant. In fact, no such occurrence had taken place at all. Countering the said argument, the learned State counsel submitted that the learned trial

Court had recorded well reasoned findings in this regard and the same are liable to be upheld by this Court. I find force in the submissions made by learned State counsel and the trial Court had assigned the valid and good reasons for holding that the delay in lodging of the FIR had been explained properly. In the instant case, the occurrence had taken place at about 06.00 p.m. on 09.05.2001. As per PW3 Dr. Yashpal Garg, on police request Ex.PH, he opined at 12.15 a.m. on 10.05.2001 that injured Satpal and Haripal Singh were unfit to make their statements and made his endorsement Ex.PH/1. Still further, the prosecution examined PW4 Dr. Gurdarshan Singh, who opined at 1.15 p.m. on 10.05.2001 vide his endorsement Ex.PJ/1 that injured Haripal and Satpal were fit to make their statements, on the police request Ex.PJ. Immediately thereafter, the statements of Satpal and Haripal were recorded and the FIR was lodged at 2.30 a.m. on 10.05.2001. Thus, it is apparent that the moment, both the injured were declared fit to make their statements, their statements were recorded by the Investigating Officer and the FIR was registered without any delay. No doubt, PW7 Harbans Singh, father of both the injured had witnessed the occurrence and could have lodged the FIR. But as a matter of fact, both sons, i.e., Satpal and Haripal had suffered pellet injuries and his first priority was to get the best available medical treatment to both of them and must be perplexed. Thus, the delay in lodging the FIR stood explained by the prosecution and the prosecution case could not be rejected on this ground.

Learned counsel appearing on behalf of the appellant stated that there was no intention or knowledge on the part of the appellant/accused to kill any of the injured and no offence under Section 307 IPC is made out. The prosecution had examined PW2 Dr. Tarlok Singh, who had proved the injuries on the person of both the injured and he had clearly opined that the injuries on the person of both the injured were not dangerous to life. The said witnesses also stated that as per the pictorial diagram Ex.PC/1 and PD/1, the main thrust of the pellets was on the lower limbs of the body and the pellets had not struck in the straight manner and the same might have struck either from upward to downward or vice versa. It was possible that the pellets had struck from downward to upward as main thrust of the same was on the lower limb. Similarly, the medical opinion clearly suggested that the injuries on the person of the injured were simple in nature and the accused had not fired on any vital organ of any of the injured. Since, the injured had not suffered any injury on their head or upper parts of the body, straight, it would be inappropriate to infer any intention or knowledge on the part of the appellant to murder any of the injured. Consequently, it was prayed that in the attending circumstances, at the most, it can be stated that the accused had the intention or knowledge to cause simple injuries to the injured on non vital organs and the offence would not fall within the ambit of Section 307 IPC. Refuting the said submissions, learned State counsel submitted that there was indiscriminate firing from the single SBBL gun and had exhorted to kill them, the offence under Section 307 IPC

was clearly made out against the appellant. Still further, simply because the injured had suffered simple injuries, it cannot be stated that the assailant, i.e. appellant had no intention to cause the murder of both the injured and the circumstances of the case have to be considered collectively. Thus, the learned State counsel prayed that the impugned judgment of conviction is liable to upheld by this Court.

In the instant case, the prosecution examined Satpal Singh son of Harbans Singh, injured/complainant as PW5. The said witness clearly stated that at about 06.00 p.m. on 09.05.2001, he alongwith his father Harbans Singh and brother Haripal were erecting a wheat chaff rick in the courtyard of their outer house. The accused came there and started hurling abuses on them. He grappled with Haripal, another injured. After leaving Haripal Singh, the accused went away to his house. After 10/15 minutes Mohandeep Singh accused armed with gun of 12 bore of his father's brother came there. Soon after arrival, the appellant raised *lalkara* and fired upon Satpal Singh and Haripal Singh from his gun with an intention to kill them. The first fire got missed. He unloaded the gun and took out the empty immediately and after loading the gun, refired on him and his brother with an intention to kill them. He as well as his brother suffered pellet injuries and their father raised alarm to save them, which attracted Mohinder Singh, his grand-father. On this Mohandeep Singh, appellant/accused decamped with his gun. Mohinder Singh, his grand-father and Harbans Singh his father shifted them in a jeep to Civil Hospital Mansa and got them admitted there. The statement of

PW5 Satpal Singh had been duly corroborated by PW6 Haripal Singh injured and PW7 Harbans Singh father of both the injured. Even PW6 Haripal Singh and PW7 Harbans Singh had deposed on similar lines. A perusal of the testimonies of all the three witnesses would clearly establish that the said witnesses had presented a vivid account of the entire occurrence and were subjected to incisive cross-examination. However, from a perusal of their respective testimonies, it is apparent that there was nothing on record to shatter their credence in any manner. Even PW5 Satpal Singh, complainant/injured and PW6 Haripal Singh, injured had suffered pellet injuries and there was no reason to disbelieve their respective testimonies.

The ocular account of the witnesses has been duly corroborated by the testimony of PW2 Dr. Tarlok Singh, who conducted the MLR of both the injured. PW2 Dr. Tarlok Singh clearly stated that he medico-legally examined Satpal Singh on 09.05.2001 at about 07.30 p.m., that is, immediately after the occurrence and found the following injuries on his person:-

- 1. Oval lacerated wound 3 mm x 2 mm in size one on the upper part of chest on frontal aspect on right side of chest one on the left side of chest 8 cm medial to nipple one on the lower part of chest 5 cm above the lower costal margin on the anterior axillary line, four on the abdomen on anterior aspect below umbilicus, four in the pubic region, four on the anterioro medial aspect of left thigh*

*multiple on the right thigh on antero lateral aspect of right thigh and three wounds in the antero lateral aspect or grazed wounds, five on the right leg, three in front of left leg, margins are inverted, fresh bleeding was present from all the wounds. Probing was not done, correspondence holes were present on the shirt pyjama and kaccha. Clothes were sealed and handed over to the police. Kept under observed for x-ray.*

- 2. An abrasion on the left axillary region was present, which was 1 cm x 25 cms fresh bleeding was present.*
- 3. Swelling nose were present with fresh bleeding from the right nostril. Kept under observation x-ray examination.*

Similarly, at about 08.00 p.m., he medico legally examined Haripal Singh, another injured and found the following injuries:-

- 1. An oval lacerated wound 3 cm x 2 cm on the front of right side of chest 3 mm right to middle line, 7 mm below the nipple margins were inverted. Fresh bleeding was present. Probing was not done. Corresponding hole was present in the shirt. Kept under observation and x-ray examination.*

2. *Five oval shaped lacerated wound 3 mm x 2 mm on the antero medial aspect of left thigh in the lower part and knee was present. Fresh bleeding was present. Margins were inverted, probing was not done, a grazed wound 2 cm x 3 mm on the antero lateral aspect of left leg in its middle was present which was kept under observation and x-ray examination.*

The testimony of PW2 Dr. Tarlok Singh, Medical Officer was dully corroborated by the testimony of PW1 Dr. S.P. Bansal, who conducted the radiological examination of Haripal and observed as under:-

1. *X-ray chest P.A. Skiagram showed one radio-opaque shadow. No bonny injury was seen.*
2. *X-ray left thigh, skiagram showed multiple radio opaque shadow. No bonny injury was seen.*

On the same day, he examined Satpal and observed as under:-

1. *X-ray nasal bone, Skiagram did not show any bonny injury or any radio opaque shadow.*
2. *X-ray mendible A.P. View. Skiagram did not show any bonny injury or any radio opaque shadow.*
3. *X-ray chest, abdomen and both thighs and legs. Skiagram chest showed two radio opaque shadow. No bonny injury was seen. X-ray right thigh showed multiple radio opaque shadow. Skiagram left thigh showed two radio opaque shadow. No bonny injury was seen. X-ray abdomen showed multiple radio opaque shadow. No bonny injury was seen. X-ray right*

*and left leg showed multiple radio opaque shadow. No bonny injury was seen.*

The prosecution also examined Dr. Yashpal Garg, who had also opined with regard to the fitness of the injured and had treated them. Even, the prosecution examined PW4 Dr. Gurdarshan Singh, who declared both the injured fit to make statements on 10.05.2001 and proved bed head tickets of the injured Ex.PE and Ex.PF. Consequently, it is apparent that the ocular version was duly corroborated by medical evidence of the above stated four doctors, who deposed and lent credence to the case set up by the prosecution.

In the instant case, the main thrust of the learned counsel for the appellant was that no offence under Section 307 IPC was made out against the present appellant. However, I have considered the said submission in the light of the evidence led by the prosecution and find that the learned trial Court had recorded sufficient and valid reasons for convicting the appellant under Section 307 IPC. In order to attract the offence under Section 307 IPC, the injuries need not be on the vital parts of the body. In order to convict an accused under Section 307 IPC, causing of hurt is sufficient. If anybody does an act with an intention or knowledge that by his act he might cause death and the hurt is caused, that is, sufficient to hold that the offence under Section 307 IPC is made out. A gun shot, as fired in the present case may miss the vital part of the body and may result in a lacerated wound/simple injury on a non vital part, but that by itself is sufficient for holding the accused guilty of the offence under Section 307 IPC. In the instant

case, it is apparent from the prosecution evidence that the accused fired gun shots from a single barrel gun indiscriminately and the pellets struck both the injured, i.e. PW5 Satpal Singh and PW6 Haripal Singh and it can safely be concluded that the accused had the intention to cause the murder of both the injured. Consequently, the findings recorded by the learned trial Court that the prosecution had been able to establish its case against the accused under Section 307 IPC and the case does not fall within the ambit of Section 323 IPC and the findings recorded by the trial Court are liable to be upheld by this Court.

Apart from that, the learned trial Court rightly convicted the appellant under Section 25 of the Arms Act. The prosecution examined PW8 Parshottam Dass, Reader to District Magistrate, who had exhibited the sanction for prosecution as Ex.PN. Still further, the gun Ex.PB was also taken into possession by the police vide recovery memo Ex.PO. The prosecution examined PW10 ASI Ajaib Singh, who had initially recorded the version of the complainant and had also conducted the initial investigation, which also led to the recovery of the weapon from him. Even, PW14 Constable Goral Singh had deposed that doctor handed over the vial containing pellets and the same were taken into possession vide memo Ex.PR. Even during the investigation, the recovery of the weapon as well as the use of weapons in firing the shots on both the injured, stood amply proved by the prosecution witnesses. Since, the indiscriminate firing by the appellant stood proved by the testimonies of both the injured as well

as the eye witnesses, the motive had lost its importance and the defence evidence was rightly discarded by the learned trial Court. When direct evidence was available to show the complicity of the present appellant in the crime, the motive had been rendered irrelevant and insignificant.

Thus, the prosecution had been successful in leading substantial evidence to prove the guilt of the appellant/accused under Section 307 IPC and Section 25 of the Arms Act and the findings recorded by the learned trial Court need no interference by this Court. No other argument had been raised by the appellant. As a consequence, the impugned judgment of conviction dated 19.01.2004 passed by the Court of learned Additional Sessions Judge, Mansa, is upheld.

However, this Court cannot lose sight of the fact that the FIR in the instant case was registered on 10.05.2001 and the appellant had been facing the agony of trial/appeal for about 22 years. The appellant as well as both the injured are co-villagers and it is apparent from the record that there was no tiff between them after the present occurrence. The appellant was aged about 19 years at the time of occurrence and was an agriculturist. He is first offender and the custody certificate shows that no other case was registered against him. Still further, the appellant had undergone three years, six months and eight days (including remissions) out of the total sentence of five years, which was awarded by the learned trial Court. Thus, no useful purpose would be served by sending the appellant behind the bars.

Furthermore, the appellant and the injured are co-villagers and sending the appellant behind the bars might revive the enmity between both the parties who are living peacefully after the present occurrence. Even the occurrence had taken place between both the sides who are agriculturists over the turn of canal water and it would be appropriate to take a lenient view of the matter. Thus, the sentence imposed upon the present appellant is reduced to the period already undergone by him. However, the sentence of fine is enhanced to Rs. 50,000/-, which shall be paid to both the injured Satpal Singh and Haripal Singh in equal shares. The appellant is directed to deposit the amount of fine within a period of three months from today, with the concerned CJM, failing which, the appeal shall be deemed to be dismissed.

All pending applications, if any, are disposed of, accordingly.

The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

Records of the Court below be sent back.

31.01.2023  
amit rana

(N.S.SHEKHAWAT)  
JUDGE

Whether reasoned/speaking : Yes/No  
Whether reportable : Yes/No