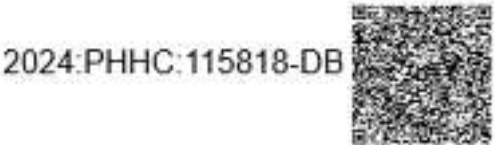


CRA-S-4556-SB-2014



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1. **CRA-S-4556-SB-2014**
Date of Decision: September 04, 2024

Harpreet Singh @ Sonu and others Appellants
Versus

State of Punjab Respondent

2. **CRA-D-1173-DB-2015**

Mohan Singh Appellant
Versus

State of Punjab and others Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Piyush Sharma, Advocate for the appellant(s).
Mr. R.S. Pandher, Sr. DAG, Punjab.
Mr. Sarju Puri, Advocate for the complainant.

LISA GILL, J.

1. This order shall dispose of CRA-S-4556-SB-2014 and CRA-D-1173-DB-2015, which were taken up together at request and with consent of learned counsel for parties as both the appeals arise out of the same incident which occurred on 04.12.2010.

2. Present is admittedly a matter of version and cross version. FIR No. 60 dated 05.12.2010 was registered under Sections 307, 324, 323 IPC read with

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Section 34 IPC on the statement of Harpreet Singh @ Sabhi son of Joga Singh against Harpreet Singh @ Sonu son of Surinder Singh, Mohan Singh son of Gurmail Singh, Surinder Singh son of Gurmail Singh. All the said accused were convicted vide judgment dated 12.09.2014 passed by learned Sessions Judge, SBS Nagar. CRA-S-4556-SB-2014 was filed by convicts challenging the said judgment and order of sentence dated 12.09.2014. Cross version giving rise to complaint was registered on the statement of Mohan Singh son of Gurmail Singh. However, accused therein were acquitted leading to filing of CRA-D-1173-DB-2015.

3. As per prosecution version in FIR No. 60, registered on the statement of Harpreet Singh @ Sabhi son of Joga Singh, fodder had been sold by him to Mohan Singh at the rate of Rs.1500/- per kanal about two months prior to 04.12.2010, however, only a sum of Rs.1300/- per kanal had been paid by Mohan Singh with refusal to pay the remaining amount. On 04.12.2010, Joga Singh father of complainant Harpreet Singh @ Sabhi, Mohan Singh (both convicted), Sandeep Singh and Darbara Singh had together gone to watch Kabaddi match at village Sarhal Mundi where they consumed liquor and returned to village Khothran Kalan at 6.30 p.m. They continued drinking at the house of Joga Singh. However, at about 9.00 p.m., Joga Singh and Mohan Singh started abusing each other and came out onto the street. Mohan Singh called for his brothers and nephews upon which Hapreet Singh @ Sonu armed with gandas, Baldeep Singh @ Deepa son of Surinder Singh armed with khanda, Surinder Singh armed with khanda and datar joined them. Harpreet Singh @ Sonu and Surinder Singh are attributed blows with their respective weapons upon Joga Singh attracting the offence punishable under Section 307 IPC. Other accused Kulwinder Singh @ Kinda (PW11) was also injured in the incident.

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Injuries were also received by Harpreet Singh son of Joga Singh, Sandeep Singh son of Balwinder Singh. Injuries received by Harpreet Singh and Sandeep Singh were duly proved by PW1 Dr. Subodh Kumar Kataria. PW2 Dr. Pankaj Kant Gupta testified regarding injuries received by Balwinder Singh and Joga Singh. Injury suffered by Joga Singh recorded in Exs. PF and PF/1 is as under:-

- “1. Lacerated incised wound over scalp starting from lateral end of eyebrow.
2. Incised wound present below the left eyelid”.
4. As per CT scan report, there is Sub Arachnoid Hemorrhage with extra dural hemorrhage and hemorrhagic contusions with fracture of left maxillary sinus. Injury No. 1 was declared dangerous to life. Joga Singh was operated upon at Dayanand College and Hospital, Ludhiana and remained admitted there for 15-20 days. Evidence of Neuro Surgeon is also on record.
5. Learned trial Court on considering the evidence on record, facts and circumstances concluded that there is no merit in the argument in the defence raised by accused party that there was never any intention of causing injuries in question on the ground that both sides had gone together to watch kabaddi match, admittedly consumed liquor together and continued festivities at the house of Joga Singh, therefore, incident which occurred would not constitute offence punishable under Section 307 IPC. Accordingly, accused were convicted for offences punishable under Sections 307, 326, 324, 323 read with Section 34 IPC and sentenced as under:-

Name of convict	Under Section	Sentence Rigorous Imprisonment	Fine	In default Rigorous Imprisonment
Surinder Singh for the injury to Joga Singh	307 IPC	7 years	Rs.5000/-	6 months

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Harpreet Singh alias Sonu	307 read with 34 IPC	7 years	Rs.5000/-	6 months
Mohan Singh	307 IPC read with 34 IPC	7 years	Rs.5000/-	6 months
Harpreet Singh alias Sonu for the injury to Kulwinder Singh	307 IPC	7 years	Rs.5000/-	6 months
Surinder Singh	307 read with 34 IPC	7 years	Rs.5000/-	6 months
Mohan Singh	307 read with 34 IPC	7 years	Rs.5000/-	6 months
Harpreet Singh alias Sonu to complainant Harpreet Singh	326 IPC	3 years	Rs.3000/-	3 months
Surinder Singh	326 read with 34 IPC	3 years	Rs.3000/-	3 months
Mohan Singh	326 read with 34 IPC	3 years	Rs.3000/-	3 months
Surinder Singh	324 IPC	1 year	Rs.1000/-	1 month
Harpreet Singh alias Sonu	324 read with 34 IPC	1 year	Rs.1000/-	1 month
Mohan Singh	324 read with 34 IPC	1 year	Rs.1000/-	1 month
Mohan Singh	324 IPC	1 year	Rs.1000/-	1 month
Harpreet Singh alias Sonu	324 read with 34 IPC	1 year	Rs.1000/-	1 month
Surinder Singh	324 read with 34 IPC	1 year	Rs.1000/-	1 month
Surinder Singh	323 read with 34 IPC	6 months		
Harpreet Singh alias Sonu	323 read with 34 IPC	6 months		
Mohan Singh	323 read with 34 IPC	6 months		

6. Cross version had been set forth by accused party in the shape of statement recorded by Mohan Singh. Said complaint was, however, dismissed

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by the learned trial Court vide judgment dated 12.09.2014. CRA-S-4556-SB-2014 has been filed by appellants convicted as above. CRA-D-1173-DB-2015 has been filed by Mohan Singh challenging judgment of acquittal dated 12.09.2014.

7. Learned counsel for parties at the very outset submit that the matter stands compromised between parties way back in October, 2018 before learned Mediator-cum-Secretary District Legal Services Authority, SBS Nagar. Parties are stated to be residents of same village and have been living in peace and harmony ever since. No untoward incident has taken place after the incident in question in 2010. It is submitted that application filed in CRA-S-4556-SB-2014 for quashing FIR No. 60 dated 05.10.2010 had been dismissed by this Court on 29.01.2019. In this view of the matter, it is prayed that as convicts have undergone substantial part of sentence, the sentence imposed upon them may be directed to be the one as undergone.

8. Learned counsel for the complainant in FIR No. 60 categorically states that there is no objection to this course of action, infact the complainant therein would pray for the same in order to maintain peace and harmony. Reliance is placed upon judgment of Hon'ble the Supreme Court **Rajendra Harakchand Bhandari and others versus State of Maharashtra and another 2011 (13) SCC 311.**

9. Learned counsel for appellant in CRA-D-1173-DB-2015 submits that he has instructions to withdraw the appeal in view of settlement which was arrived on 13.10.2018.

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10. Learned counsel for State does not raise any objection to sentence imposed upon convicts being reduced to that undergone by them in the given facts.

11. Heard learned counsel for parties and have gone through file with their able assistance.

12. Perusal of evidence on record indeed proves that prosecution was able to prove commission of the offences as mentioned above. It is, however, a matter of record that incident took place between parties who admittedly shared camaraderie amongst themselves. Incident in question took place 24 years ago. Admittedly, parties reconciled with each other way back in the year 2018. All of them are agriculturists with the convicts having no other criminal case against them. Appellant – Harpreet Singh @ Sonu has undergone actual imprisonment of 03 years, 07 months and 02 days and in case, period of remission is included he has undergone 03 years, 08 months and 02 days. Similarly, Surinder Singh has undergone actual imprisonment of 03 years, 10 months and 22 days and Mohan Singh has undergone actual imprisonment of 02 years, 03 months and 08 days and in case, period of remission is included he has undergone 02 years, 06 months and 23 days.

13. In somewhat similar circumstances, Hon'ble the Supreme Court in the case of **Rajendra Harakchand Bhandari** (supra) reduced the sentence awarded upon convicts thereunder for the offences punishable under Sections 307, 332, 353 read with 34 IPC to the period already undergone i.e. about 2½ years. It was observed as under:-

“ We must immediately state that the offence under Section 307 is not compoundable in terms of Section 320(9) of the Code of

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Criminal Procedure, 1973 and, therefore, compounding of the offence in the present case is out of question. However, the circumstances pointed out by the learned senior counsel do persuade us for a lenient view in regard to the sentence. The incident occurred on May 17, 1991 and it is almost twenty years since then. The appellants are agriculturists by occupation and have no previous criminal background. There has been reconciliation amongst parties; the relations between the appellants and the victim have become cordial and prior to the appellants' surrender, the parties have been living peacefully in the village. The appellants have already undergone the sentence of more than two and a half years. Having regard to these circumstances, we are satisfied that ends of justice will be met if the substantive sentence awarded to the appellants is reduced to 10 the period already undergone while maintaining the amount of fine."

14. Gainful reference in this regard can also be made to decision of Hon'ble the Supreme Court in **Ramgopal and another versus State of Madhya Pradesh 2021 (4) RCR (Criminal) 322**.

15. In the given facts and circumstances, it is considered appropriate to reduce the sentence imposed upon appellants in CRA-S-4556-SB-2014 to the period already undergone by them as it is apparent from the record that :-

- (i) Occurrence in question took place way back in the year 2010. It is an admitted position that no untoward incident has transpired between parties after said incident and even after settlement which took place before Mediator-cum-Secretary District Legal Services Authority, SBS Nagar in 2018. Statements of parties were duly recorded on 13.10.2018 before Mediator-cum-Secretary District Legal Services Authority, SBS Nagar. Photocopies thereof are available on record in CRA-D-1173-DB-2015.

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- (ii) All the parties are residents of the same village and are peacefully co-existing since then. The convicts are agriculturists having no other criminal case against them.
 - (iii) Abovesaid facts are duly verified by the State which has no objection to re-direction of sentence imposed upon convicts.
16. Keeping in view the above, conviction of appellants in CRA-S-4556-SB-2014 is maintained. However, imprisonment imposed upon them is reduced to the one already undergone by them and fine imposed upon the appellants is maintained.
17. CRA-S-4556-SB-2014 is disposed of accordingly.
18. CRA-D-1173-DB-2015 is dismissed as withdrawn.

(LISA GILL)
JUDGE

September 04, 2024
Rts

(SUKHVINDER KAUR)
JUDGE

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