

2025:PHHC:019746



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

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**CRA S-2514-SB-2007 (O&M)
Date of Decision:06.02.2025**

Gurmail Singh and another ...Appellants
Versus
State of Punjab ... Respondent

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

Present : Appeal qua appellant No. 1 stood abated
vide order dated 28.11.2024.

Mr. Himmat Singh Deol, Advocate, for appellant No. 2.

Mr. I.P.S. Sabharwal, DAG, Punjab.

N.S.SHEKHAWAT, J. (Oral)

CRM 46948 of 2024

For the reasons mentioned in the application, the same is
allowed. Main case is taken up for hearing today itself.

CRA S-2514-SB-2007

1. The appellants had filed the present appeal against the
impugned judgment and order dated 16.11.2007 passed by the
Sessions Judge, Mansa, whereby, the present appellants were
convicted for the offence punishable under Section 307/34 IPC and
were sentenced.

2. During the pendency of the present appeal, Gurmail Singh, appellant No. 1 had expired and vide order dated 28.11.2024, the name of the appellant No. 1 was ordered to be deleted from the array of parties and the appeal qua him stood abated. However, the appellant No. 2 Hakam Singh is alive and the submissions have been made by the learned counsel on his behalf.

3. The FIR in the instance case was got registered by Harnek Singh, father of Harbans Singh (injured), who alleged that on 22.06.2002, the complainant alongwith his son and nephew Gurjant Singh left the house of his brother Gurdev Singh. His brother Gurdev Singh came out upto the door of his house to see them off. At about 08.30 p.m., when the complainant party was passing in front of the house of Gurmail Singh and Hakam Singh, the electric bulb was on and it was also a moonlit night. At that time, Gurmail Singh and Hakam Singh sons of Chand Singh, both armed with revolvers and Chand Singh empty handed, came out of their house. Chand Singh raised *lalkara* that Janaka be not spared. Then Gurmail Singh and Hakam Singh fired from their revolvers towards them with an intention to kill and the fires hit Harbans Singh in his abdomen, chest, arm and other parts of his body. The complainant party raised *roula* “*marta-marta*”, then all the accused ran away with their respective weapons. The injured Harbans Singh was rushed to Civil Hospital, Mansa, where he was medically checked up, but as the condition of

Harbans Singh was serious, so he was referred to DMC & Hospital, Ludhiana, where he remained admitted and operated upon. He further stated that the motive behind this occurrence was that during February 2002, Assembly Elections of Punjab, there was fight between Harbans Singh and Gurmail Singh, which was got compromised by the respectables, but the accused party had revengeful attitude towards the complainant party, that is why they have injured Harbans Singh with fire shots with an intention to kill him. On the above statement of complainant, the present case under Section 307 read with Section 34 of the Indian Penal Code and Sections 25 and 27 of the Arms Act 1959 was registered.

4. During the process of investigation, on 28.6.2002, one Pritam Singh resident of Dhalewan produced all the accused before the SHO in the presence of Balwant Singh. The accused were arrested. Accused Gurmail Singh produced his licenced .315 bore gun along with seven empty and eight live cartridges, which were taken into police possession. Accused Chand Singh produced his .12 bore gun along with twelve live cartridges, which were also taken into police possession. On 29.6.2002, accused Gurmail Singh on the basis of his disclosure statement got recovered one revolver which was unloaded, as a result of which two empty cartridges and three live cartridges of .32 bore were recovered. The accused also got recovered seven live cartridges of .32 bore, which were reduced into parcel and

taken into police possession. During operation of Harbans Singh, one bullet was taken out from his body, which was taken into police possession. The revolver recovered from accused Gurmail Singh and the bullet taken out of the body of Harbans Singh were sent to Forensic Science Laboratory, Punjab, Chandigarh, for analysis and the report of the Forensic Science Laboratory, Punjab, Chandigarh, proved that the bullet taken out from the body of Harbans Singh was fired from the revolver recovered from accused Gurmail Singh. After completion of other formalities of investigation, challan against the accused under Section 307 read with Section 34 of the Indian Penal Code and Sections 25 and 27 of the Arms Act, 1959 was prepared and presented in the Court.

5. Since the offence was triable by the Court of Sessions, the case was committed and after committal, the trial Court found that there was sufficient evidence to proceed against the accused under Section 307/34 IPC and Section 27 of the Arms Act. The charge was framed against the accused and they pleaded their innocence and claimed trial.

6. In support of the charge, the prosecution examined 11 witnesses and closed the evidence.

7. The prosecution examined PW-1 Dr. Pankaj Sharma, Civil Hospital, Mansa, Medical Officer, who conducted the MLR of injured Harbans Singh, PW-2 Dr. Gulzar Gupta, Senior Resident,

Department of Surgery, DMC & Hospital, Ludhiana, PW-3 Antar Singh Patwari, Halqa Beero Ke Kalan who prepared the scaled site plan of the place of occurrence, PW-4 Dr. Parabhdeep Singh Nain, Assistant Professor, Department of Surgery, DMC & Hospital, Ludhiana, PW-5 Harnek Singh complainant, PW-6 Harbans Singh injured, PW-7 ASI Gurdev Singh, PW-8 Shri Sohan Singh, Security Supervisor, New DMC & Hospital, Ludhiana, PW-9 Constable Birbal Singh, PW-10 Surjit Singh, ASI (retired) and PW-11 Satwant Singh, DSP, CID Wing, Ferozepur (the then SHO Inspector Batwant Singh), Investigating Officer of this case and then the prosecution closed its evidence.

8. After closer of the prosecution evidence, the statements of the accused under Section 313 Cr.P.C. were recorded and they stated that they had been falsely implicated due to long standing enmity between the parties. In fact, the entire story of the prosecution was false and fabricated. The accused side also examined three witnesses, namely, Mohinder Singh as DW1, Jarnail Singh as DW2 and Satpal Singh, Telegraphist as DW3 and closed their evidence in defence.

9. In support of the charge, the prosecution examined PW-1 Dr. Pankaj Sharma, Medical Officer, who conducted the medical examination of injured Harbans Singh, proved as many as six fire arm injuries on the person of Harbans Singh. He also proved the MLR,

carbon copy of which is Ex.PA. Pictorial diagram showing seats of injuries Ex.PA/1 and the bed head ticket of the injured Ex.PC. PW-2 Dr. Gulzar Gupta, Senior Resident, Department of Surgery, Dayanand Medical College & Hospital, (DMC), Ludhiana has proved the admission of Harbans Singh in DMC & Hospital on 23.6.2002 and stated that he was operated upon. He proved the bed head ticket of the injured Ex.PD and the information sent to the Police Ex.PE. PW-4 Dr. Prabhdeep Singh Nain, Assistant Professor, Department of Surgery, DMC & Hospital, Ludhiana, has deposed that he operated upon patient Harbans Singh on 23.6.2002 and further deposed *inter alia* that bullet present in subcutaneous tissue over the right anterior wound over abdomen was extracted from the body of Harbans Singh. He proved the operation notes Ex.PD/1. The said bullet was sealed with the seal of DMC & Hospital, Ludhiana and was handed over to the police.

10. Thereafter, the prosecution also examined PW5 Harnek Singh father of Harbans Singh and Janak Singh injured and PW6 Harbans Singh, injured. PW5 Harnek Singh and PW6 Harbans Singh, complainant side witnesses supported the case of the prosecution and reiterated the averments, which were made by the complainant in the FIR. They stated that motive behind this occurrence was that during the Assembly Elections 2002, there was an altercation of Gurmail Singh and Hakam Singh on the one side and Harbans Singh injured

on the other side. However, the matter was compromised between the parties, but the accused nourished a grudge against Harbans Singh. The witnesses proved the statement of the complainant Ex.PE, which was thumb marked by Harnek Singh as well as the compromise Ex.PF.

11. During the course of trial, the prosecution examined PW11 DSP Satwant Singh, the then SHO/Investigating Officer of the case, who proved the recovery and the investigation. In pursuance of disclosure statement Ex.PU, accused Gurmail Singh got recovered a .32 bore unlicensed revolver and its cartridges from the specified place, which were sealed with the seal bearing impression 'SS' and were taken into possession vide memo Ex.PV. The said revolver was produced in the Court as Ex.P-1. He also prepared the rough site plan of the place of recovery Ex.PW. The revolver recovered from accused Gurmail Singh as well as bullet, extracted from the body of Harbans Singh injured, were sent to the Forensic Science Laboratory, Punjab, Chandigarh and the report of the Forensic Science Laboratory, Punjab, Chandigarh Ex.PX, fully proved that the bullet mark CB/1 had been fired from .32 inch revolver No.B-6911, which was allegedly recovered from accused Gurmail Singh.

12. The accused also examined DW1 Mohinder Singh Sarpanch of the village and DW2 Jarnail Singh, who had sent telegrams to the higher authorities as well as to the higher police

officers. The telegrams had also been proved by DW3 Satpal Singh, Telegraphist from the office of BSNL, Mansa.

13. I have heard learned counsel for the parties and perused the record.

14. Learned counsel appearing on behalf of respondent No. 2 submits that the matter has been amicably resolved between the parties and the affidavit of Harbans Singh, injured, has already been placed on record. Harbans Singh, injured, clearly stated that he had no objection in case the appellants are acquitted or their sentence is reduced by this Court as the parties have compromised the matter. Moreover, two other accused in the present case have already expired and appellant No. 2 is the only surviving accused in the present case. Thus, a lenient view may be taken while awarding the sentence to him. He further contends that he does not wish to challenge the conviction also. However, this Court has considered the evidence in the light of the settled law and the findings are as under:-

In the present case, the case of the prosecution has been proved by the statement of PW5 Harnek Singh, complainant/eye witness and PW6 Harbans Singh injured. Both the witnesses clearly deposed that Hakam Singh and Gurmail Singh had caught hold of Harbans Singh from his arms and, thereafter, they had fired shots from their revolvers, hitting Harbans Singh on his abdomen, arm, chest and left shoulder etc., Even there was sufficient evidence that

Gurmail Singh had fired shots from his revolver, which had hit Harbans Singh in his abdomen and other parts of the body. During the course of investigation, Gurmail Singh, the accused was apprehended and on his disclosure statement, a .32 bore revolver was recovered from the disclosed place by digging the earth. From the whisper of the revolver, 07 live cartridges of .32 bore were also got recovered by him, which were sealed by the Investigating Officer. The bullet extracted from the body of Harbans Singh and the revolver recovered from Gurmail Singh were sent to FSL, Punjab, Chandigarh for forensic analysis and the FSL report Ex.PX clearly proved that the bullet extracted from the body of Harbans Singh had been fired from .32 bore revolver recovered from Gurmail Singh, accused. Thus, it was clear that Gurmail Singh had fired shots at Harbans Singh, injured, in the present case. Moreover, the injuries were proved by the statement of PW1 Dr. Pankaj Sharma, PW2 Dr. Gulzar Gupta, Senior Resident, Department of Surgery, DMC and Hospital, Ludhiana and Dr. Parabhdeep Singh Nain, Assistant Professor, Department of Surgery, DMC and Hospital, Ludhiana. The Investigating Officer PW11 DSP Satwant Singh had supported the case of the prosecution. All the witnesses had duly proved the case of the prosecution beyond shadow of reasonable doubt and the present appellant No. 2 was rightly convicted for the offence under Section 307/34 IPC. Thus, the

impugned judgment of conviction dated 16.11.2007 passed by the Sessions Judge, Mansa, is ordered to be upheld by this Court.

15. Now adverting to the order of sentence, this Court is conscious of the fact that the FIR in the present case was registered on 23.06.2002 and the appellant No. 2 is facing the prosecution for the last about 23 years. Even, Hakam Singh, appellant No. 2 was aged about 27 years at the time of his conviction in the year 2007 and now he is aged about 45 years. Moreover, the sentence imposed on him was suspended on 04.02.2008, i.e., more than 17 years ago. During this period, he was never involved in any criminal activity and never misused the concession of bail granted to him by this Court. Moreover, the present appellant No. 2 is a first offender and even prior to the occurrence, he was not involved in any other criminal case. Further, learned counsel for the injured/victim has also filed an affidavit of Harbans Singh, injured/victim, in the present case and he stated that he has no objection in case the appellant No. 2 is acquitted or his sentence is reduced by this Court. Moreover, appellant No. 2 has undergone the sentence of more than 02 years and 04 months out of total sentence of 07 years. Thus, no purpose will be achieved by sending the appellant No. 2 behind the bars after so many years and taking a lenient view of the matter, the sentence imposed on the appellant No. 2 is reduced to the period already undergone by him. The sentence of amount of fine shall remain the same.

16. With the above modifications, the appeal is partly allowed and the impugned judgment of conviction is upheld, whereas the order of sentence is modified to the extent that the sentence imposed on the present appellant No.2 is reduced to the period already undergone by him. However, the sentence of amount of fine shall remain the same.

06.02.2025
amit rana

(N.S.SHEKHAWAT)
JUDGE

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