



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRA-S-2142-SB-2004
Decided on: 18.11.2025

GULWINDER SINGH
.....Petitioner
Versus
STATE OF PUNJAB
.....Respondent

CORAM: HON'BLE MR. JUSTICE SUBHAS MEHLA
Present: Mr. Gulshan Sharma, Advocate
for the appellant.
Mr. Anup Singh, AAG, Punjab.

SUBHAS MEHLA, J. (Oral)

1. The appellant has challenged the impugned judgment of conviction and order of sentence dated 08.10.2004 passed by the learned Sessions Judge, Faridkot in Complaint under Sections 148, 307, 325, 324, 323 read with Section 149 of IPC in Sessions case No. 83/ 21.11.1998/ 04.06.2004 whereby the appellant has been convicted and sentenced as under:

Under Section	Sentence
148 IPC	To undergo RI for a period of one year
326/149 IPC	To undergo RI for a period of 03 years and to pay a fine of Rs.500/- and in default thereof, to further undergo RI for a period of 02 months , for causing grievous hurt to Nidhan Singh



325/149 IPC	To undergo RI for a period of 02 years and to pay a fine of Rs.300/- and in default thereof to further undergo RI for a period of 01 month, for causing grievous hurt to Gurtej Singh
324/149 IPC	To undergo RI for a period of one year for causing injuries to Gurbax Singh
324 IPC	To undergo RI for a period of one year for causing injuries to Gurbax Singh
323/149 IPC	To undergo RI for a period of six months for causing injuries to Nishan Singh
323/149 IPC	To undergo RI for a period of six months for causing injuries to Gurtej Singh
323/149 IPC	To undergo RI for a period of six months for causing injuries to Gurbax Singh
323/149 IPC	To undergo RI for a period of six months for causing injuries to Nidhan Singh

2. It is a case of version and cross version. Brief facts of the case are that on 16.2.1998, there was polling for Parliamentary elections. After the polling was over, at about 6.00 P.M., the complainant alongwith Gurtej Singh and Gurbax Singh was present in the school of their village, where accused Boota Singh, Darshan Singh, Naib Singh, Basant Singh, Gulwinder Singh and Gora Singh all armed with "*Gandasas*" were present. Gurchhinder Singh armed with a "*Sela*" and Sukhdev Singh armed with "*Gandhali*" came. The accused Sukhdev Singh then exhorted his co-accused to teach a lesson to the complainant and his companions for making the wife of Bohar Singh to contest the election of *Sarpanch*



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against the wife of accused Boota Singh and then accused Boota Singh inflicted a "*gandasa*" blow from its blunt side on the head of the complainant. Darshan Singh accused gave a "*gandasa*" blow from reverse side on his head and accused Sukhdev Singh gave a "*Gandhali*" blow on his right hand wrist. The other accused namely Gora Singh, Gurchhinder Singh, Naib Singh, Basant Singh and Gulwinder Singh (appellant) also caused injuries to Gurtej Singh and Gurbax Singh with their respective weapons. On raising alarm by the complainant and his companions, the accused persons ran away from the spot along with their respective weapons.

3. After a trial, the present appellant along with co-accused were convicted vide judgment dated 08.10.2024 by learned Sessions Judge, Faridkot and sentenced as mentioned above vide order of sentence of even date. Learned counsel for the appellant contended that vide order dated 16.11.2004, the interim bail granted to the appellant by the trial Court was ordered to be continued and his sentence was ordered to be suspended during the pendency of the present appeal. He further contended that during the pendency of the connected appeals i.e. CRA-S-2179-SB-2004 and CRA-S-2153-SB-2004 filed by the co-convicts/appellants, the parties have compromised the matter and sought setting aside of their conviction and sentence, based on the said compromise, with the complainant-victim(s) by way of filing application(s). Vide order dated 20.05.2024, the said appeals have been



allowed by a Coordinate Bench of this Court vide which the judgment of conviction and order of sentence dated 08.10.2004 passed by the trial Court, have been set aside. Learned counsel for the appellant submitted that since the judgment of conviction and order of sentence dated 8.10.2004 passed by the trial Court itself, have been set aside on the basis of compromise between the parties, the criminal proceedings *qua* the present appellant be also set aside.

4. Heard.

5. Keeping in view the facts and circumstances of the present case and the contentions of learned counsel for the appellant; the appellant has been convicted under Section 149 IPC being a member of an unlawful assembly in pursuit of a common object; the main allegation for causing injuries were attributed to co-convict/ co-accused as is clear from the initial complaint by the complainant; since the judgment of conviction and order of sentence dated 08.10.2004 passed by the trial Court itself, has been set aside on the basis of compromise between the parties, as stated above, therefore, the conviction of present appellant also deserves to be set aside in view of the order dated 20.05.2024 passed by the Coordinate Bench of this Court in CRA-S-2179-SB-2004. As the present appellant stands on the lesser footing than the other co-convict/co-accused against whom the main allegations of injuries were attributed, thus, appellant also deserves the benefit of acquittal. Hon'ble



the Supreme Court in case titled as “**Yogarani Vs. State by the Inspector of Police**”, 2024 INSC 721 has observed as under:-

“10. The Court cannot convict one accused and acquit the other when there is similar or identical evidence pitted against two accused persons. In the case of *Javed Shaukat Ali Qureshi v State of Gujarat* reported in 2023 INSC 829, this court has held that:

“15. When there is similar or identical evidence of eyewitnesses against two accused by ascribing them the same or similar role, the Court cannot convict one accused and acquit the other. In such a case, the cases of both the accused will be governed by the principle of parity. This principle means that the Criminal Court should decide like cases alike, and in such cases, the Court cannot make a distinction between the two accused, which will amount to discrimination.””

6. Moreover, the partial compromise should not be allowed and the Courts must restrain themselves from passing the order of composition on the basis of piecemeal settlement between the parties as observed in the judgment dated 12.11.2024 passed by a Division Bench of this Court in case titled as “**Rakesh Das Vs. State of Haryan and Another**” bearing no.CRM-M-48043-2023.

7. As the Coordinate Bench of this Court has set aside the judgment of conviction and order of sentence dated 08.10.2004 passed by the trial Court itself, in view of the compromise between the parties, the



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present appeal is allowed and the judgment of conviction and order of sentence dated 08.10.2004 passed by the trial Court *qua* the present appellant is also hereby set aside. The amount of fine deposited by the present appellant is forfeited to the State as expenses incurred by the State. Bail bonds, if any, furnished by the present appellant stands discharged. Pending applications if any, also stand disposed of.

(SUBHAS MEHLA)
JUDGE

18.11.2025
Sonia Puri

Whether Speaking/Reasoned: YES/NO
Whether Reportable: YES/NO