



CRA-S-935-SB-2011 (O&M)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****R-308****CRA-S-935-SB-2011 (O&M)****Date of decision : 01.12.2025**

Mohinder Singh & Ors.

..... Appellants

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Anutej Singh Barnala, Advocate for the appellants.

Mr. Jasdev Singh Thind, DAG Punjab.

SURYA PARTAP SINGH, J. (oral)

1. For the commission of offence punishable under Sections 307, 447, 506, 149 of the Indian Penal Code, hereinafter being referred to as 'IPC' only, and Section 30 of the Arms Act, arising out of FIR No.173 dated 02.12.2004, eighteen accused were sent by SHO, Police Station Dhanaula to face trial for the commission of abovementioned offence.

2. The abovementioned trial, by virtue of judgment of conviction and order of sentence dated 05.03.2011, passed by the Court of learned Additional Sessions Judge Barnala, hereinafter being referred to as 'trial Court', culminated into acquittal of fourteen accused, namely Darshan Singh, Jagdev Singh @Hakam Singh, Gulab Singh, Nirmal Singh, Bant Singh @Balwant Singh, Sohan Singh, Chand Singh, Gurmail Kaur, Harbans



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Kaur, Kulwinder Kaur, Mandeep Kaur, Harbans Kaur, Mohinder Kaur, and Ramjit Kaur. However, by virtue of the same judgment the accused Mohinder Singh, Sukhwinder Singh, Jaswant Singh and Dulla Singh have been convicted. The abovementioned convicts have preferred the instant appeal, hereinafter being referred to as 'appellants' only.

3. By virtue of abovementioned judgment, it has been observed that charge for the commission of offence punishable under Section 336, 447, 427, 506 of IPC and Section 30 of Arms Act stands proved against the appellants No.1, 2 and 3, namely Mohinder Singh, Jaswant Singh and Dulla Singh, whereas charge for the commission of offence punishable under Section 447, 427, and 506 of IPC against the appellant No.4-Sukhwinder Singh. In view of abovementioned finding, vide order dated 05.03.2011, on quantum of sentence of the same date, the appellants have been sentenced as under:-

Accused	Offence u/s	Sentence
Mohinder Singh, Jaswant Singh and Dulla Singh	336 IPC	To undergo imprisonment for three months each and to pay a fine of Rs.200/- each and in default of payment of fine to undergo further R.I. for 15 days each.
Mohinder Singh, Jaswant Singh, Dulla Singh and Sukhwinder Singh	447 IPC	To undergo imprisonment for three months each and to pay a fine of Rs.200/- each and in default of payment of fine to undergo further R.I. for 15 days each.
Mohinder Singh, Jaswant Singh, Dulla Singh and Sukhwinder Singh	427 IPC	To undergo R.I. for one year each and to pay a fine of Rs.500/- each and in default of payment of fine to undergo further R.I. for two months each.



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Mohinder Singh, Jaswant Singh, Dulla Singh and Sukhwinder Singh	506 IPC	To undergo R.I. for one year each and to pay a fine of Rs.500/- each and in default of payment of fine to undergo further R.I. for two months each.
Mohinder Singh, Jaswant Singh and Dulla Singh	30 Arms Act	To undergo R.I. for three months each and fine of Rs.500/- each, in default of payment of fine to undergo further R.I. for one month each.

4. Aggrieved of the abovementioned judgment of conviction and order of sentence, the present appeal has been preferred by the appellants on the ground that the impugned judgment of conviction and order of sentence are outcome of non-application of judicial mind, and that the learned trial Court has committed an error of judgment in appreciation of factual matrix of the case, vis-à-vis the law applicable thereto. It has been alleged by the appellant that the learned trial Court has ignored the basic principle of criminal jurisprudence that the prosecution is duty bound to prove its case beyond the shadow of all reasonable doubts. As per appellants, merely, on the basis of presumptions and assumptions, the learned trial Court has arrived at a conclusion that charge against the appellants stands proved, whereas the evidence adduced by the prosecution was not only unreliable, but also inconsistent and contradictory. It has also been pleaded that the judgment of conviction is based on conjectures and surmises, and therefore, there is need for indulgence and interference, in the impugned verdict, by exercising the appellate jurisdiction of this Court.

5. In nut-shell, the facts emerging from record are that the FIR of this case came into being when a written complaint was addressed by Mewa



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Singh s/o Chand Singh to SHO Police Station Dhanaula for taking action against Chand Singh, Mohinder Singh, Jagdev Singh, Manjit Singh, Gulab Singh, Nirmal Singh, Banta Singh, Jaswant Singh, Dulla Singh and Sohan Singh, along with 6-7 other unknown persons. It was stated by the complainant that he is an agriculturist, and that he had purchased 35 kanal of land in Village Badra from Manjit Singh and Nirmal Singh regarding which there was an agreement to sell. As per complainant, he had received possession from them and sale deed was to be executed later on. It was further alleged by the complainant that when the vendors failed to execute the sale deed as per terms & conditions of the agreement to sell, he filed a suit in the Civil Court which is still pending. It was also alleged that the *khasra girdawari* entries are in his name since 2002 and *chaar sala* is also in his name and that he is in possession of the same. The complainant also stated that an injunction order had been passed in his favour by the learned Civil Court vide order dated 16.11.2004, and that he had sown the paddy and cotton crop in the said land.

6. It was further alleged by the above-named complainant that on 28.11.2004, he and his son Jasvir Singh were irrigating the land measuring 2.5 killa of land bearing khasra Nos.1351/3-0, 2650/1355/7-0, 1352/9-0, 1353/8-0 and 1354(8-0), wherein they have sown the wheat and *narma* crops. The complainant further alleged that on 28.11.2004 at about 10:00 pm., out of the abovementioned assailants Dulla Singh armed with double barrel gun, Jaswant Singh, armed with rifle, Mohinder Singh, armed with



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rifle, and one unknown person, armed with rifle, along with other persons who were armed with sticks, hatchet, Barchhas (sharp-pointed weapon) and spades came there on two tractors and entered in their fields. According to complainant thereafter, Dulla Singh, Jaswant Singh and Mohinder Singh started firing from their respective weapons towards aiming with an intention to kill, and that had saved themselves by taking cover of *narma* crop and returned to their house. He further alleged that the information regarding the abovesaid occurrence was given by them to the respectables of the village and that in their absence, the abovementioned assailants also damaged their crops.

7. It was further alleged by the complainant that on 29.11.2004, when he and his son Jasvir Singh went to their fields at about 09:00 am, they saw Gurmel Kaur, Harbans Kaur, Kulwinder Kaur, Manpreet Kaur, Ramjit Kaur, Harbans Kaur w/o Jaswant Singh and Mohinder Kaur were collecting the *narma* crop from their fields, whereas Dulla Singh, Jaswant Singh and Mohinder Singh armed with rifles, *daang* (stick), spades & Gandasa (hatchet). As per complainant on their arrival they started hurling abuses to them and chased them with their rifles, but they again saved them by running away from the spot. It was also stated that the abovementioned persons have committed the theft of 6-7 maund of *narma* (cotton) crop and four bags of urea fertilizer.

8. It has been the case of the prosecution that in view of the abovementioned complaint, a formal FIR in this case was lodged and the



investigation taken up. As per prosecution, on completion of investigation, when the challan was presented and trial was conducted by the learned trial Court, it culminated into conviction of the appellants only.

9. Heard.

10. At the threshold, the learned counsel for the appellants has made it clear that he does not want to argue on the merits of the case, i.e. qua the findings recorded by the learned trial Court with regard to conviction of the appellants. The present Criminal Appeal has been pressed by learned counsel for the appellants with regard to order on quantum of sentence only.

11. It has been argued on behalf of appellants that in the present case, the dispute between the parties was of civil nature, and with regard to abovementioned dispute, the civil suit was pending before the Civil Court. As per learned counsel for the appellants, in the trial, there were eighteen accused, but only the appellants have been convicted for the commission of abovementioned offence.

12. The learned counsel for the appellants has further contended that the present appellants No.1 & 2 are very old-age persons, as the age of appellants No.1 & 2 as approximately 70 and 84 years, respectively, and other appellants No.3 and 4 are approximately 56 and 59 years old, respectively. In view of above, the learned counsel for the appellants has argued that in the last 21 years, i.e. since the registration of FIR pertaining to the present case, the appellants have not indulged in any kind of criminal



activity, and therefore, they are entitled for the concession of probation/admonition.

13. *Per contra*, the learned State Counsel has argued that age of the appellants has no relevance for the benefit being sought by the appellants, and that the gravity of offence committed by the appellants renders them ineligible for any lenient view. According to learned State Counsel, the appellants are not entitled for the benefit of probation/admonition.

14. The record has been perused carefully.

15. In view of the fact that the findings recorded by the learned trial Court with regard to proof of charge against the appellants, have not been challenged, the abovementioned findings recorded by the learned trial Court are hereby affirmed. Thus qua the judgment of conviction, the present appeal is hereby dismissed.

16. As far as the order on the point of quantum of sentence is concerned, in view of the fact that in the last 21 years, any of the appellants is not reported to have indulged in any criminal activity, and that the maximum punishment prescribed for the offence committed by the appellants is imprisonment upto two years, the appellants, who after the commission of present offence have not indulged in any other criminal activity, are hereby held to be eligible for the benefit of probation.

17. As a sequel to abovementioned observations, the plea of the appellants with regard to benefit of probation deserves to be accepted. Consequently, by partly accepting the present Criminal Appeal, the sentence awarded to the appellants is hereby modified and the benefit of probation is



accorded to the appellants. They are directed to furnish requisite bonds of good behaviour to the satisfaction of the learned trial Court. Once the bonds are executed, the appellants would be released on probation for a period specified by the learned trial Court. Obvious to say that in case of any offence committed by the appellants during the period of probation, they shall have to undergo the sentence awarded in this case.

18. The present Criminal Appeal stands disposed of, accordingly. The miscellaneous application(s) pending, if any, shall also stand disposed of.

(SURYA PARTAP SINGH)
JUDGE

01.12.2025
Gaurav Thakur

Whether speaking / reasoned	Yes/No
Whether Reportable	Yes/No