



CRA-S-2259-2004 (O&amp;M)

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101 IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

CRA-S-2259-2004 (O&M)  
Date of Decision: 28.04.2025

AVTAR SINGH AND OTHERS

...APPELLANTS

Versus

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Dharam Bir Bargav, Mr. Kulwinder Bhargav,  
and Mr. Jashandep Singh Bains, Advocates for the appellant.

Mr. Subhash Godara, Addl. AG Punjab.

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**Harpreet Singh Brar, J. (Oral)**

1. This appeal has been filed against the impugned judgment dated 06.11.2004 passed by learned Additional Sessions Judge, Fatehgarh Sahib, whereby the appellants have been convicted in a case stemming from FIR No. 25 dated 10.03.2002 under Sections 307, 324, 323 and 34 of Indian Penal Code, 1860 (hereinafter IPC) at Police Station Mullepur and sentenced as under:

Offence under Section(s)	Name of Convict	Sentence
324 IPC	Avtar Singh	Rigorous Imprisonment for one year
324 r/w 34 IPC	Amarjit Singh, Baljit Singh and Jarnail Singh	Rigorous Imprisonment for nine months
323 IPC	Amarjit Singh, Baljit Singh and Jarnail Singh	Rigorous Imprisonment for six months
323 r/w 34 IPC	Avtar Singh, Amarjit Singh, Baljit Singh and Jarnail Singh	Rigorous Imprisonment for four months
All sentences were ordered to run concurrently		

2. Succinctly, the facts, as alleged, are that on 09.03.2002 at around 10 p.m., complainant was returning home in his car after closing his general store. As he turned into the street near his house, he encountered brickbats and wooden logs obstructing the way. While removing them, appellant Jarnail Singh

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approached and began abusing him. Soon after, appellant-Avtar Singh who was armed with a *gandasi*, along with appellant-Baljit Singh and appellant-Amarjit Singh, arrived and attacked him. Jarnail struck him with a stick, while Baljit and Amarjit assaulted him with fists and kicks, targeting sensitive areas. Avtar Singh then hit him on the head with the *gandasi*. Complainant's wife and brother arrived at the scene, and the appellants fled. Complainant was later taken to the hospital by his brother. Consequently, on 10.03.2002, ASI Vijay Singh recorded his statement at Rajindra Hospital, whereupon ASI Joga Singh recorded the FIR(*supra*).

3. After assessing the material available on record, the learned trial Court convicted and sentenced the appellants vide judgment dated 06.11.2004.

4. The learned counsel for the appellants submits, inter alia, that learned trial Court has gravely erred in convicting the appellants under Sections 323, 324 and 323/324 read with Section 34 of IPC as there are contradictions and discrepancies in the testimonies of material witnesses. He contends that the learned trial Court has failed to appreciate that no eyewitness to the alleged incident was examined or produced during the trial even though the occurrence has taken place in a densely populated area. Learned counsel further submits that the doctor of Rajindra Hospital, Patiala has given a false opinion regarding injury alleged to have been caused by the appellants to the effect that same are dangerous to life. Furthermore, it is urged that the plea of alibi successfully raised and proved by the appellant Avtar Singh was dismissed by the learned Trial Court, without assigning any cogent reasoning. Additionally, it is submitted that the defence evidence was not accorded due and judicious appreciation by the learned Trial Court.



5. *Per contra*, learned State counsel opposes the prayer made by learned counsel for the petitioner and submits that the appellants have been convicted by the learned trial Court based on correct appreciation of the facts and law.

6. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that FIR(*supra*) was registered on 10.03.2002 and the appellants have been suffering the agony of trial since the last more than 23 years.

7. In *Deo Narain Mandal vs. State of U.P. (2004) 7 SCC 257*, the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

8. Further, the Hon'ble Supreme Court in *Ravada Sasikala vs. State of AP AIR 2017 SC 1166*, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was



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committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

9. While the complainant had suffered injuries substantial enough to attract offences punishable under Sections 323/34 and 324/34 of IPC, therefore, this court does not find any perversity in the impugned judgement dated 06.11.2004. Nonetheless, the complainant, being an injured party, is equally entitled to the right of a free, fair, and expeditious trial, as is the accused. In order to strike a balance between the rights of the parties, the sentence awarded is hereby modified, and the appellants are directed to pay compensation of Rs. 20,000/- (i.e., Rs. 5,000/- each by the four appellants) to the complainant, within a period of two months from the date of receipt of this order. Although monetary compensation cannot fully redress the pain and suffering endured by the complainant, it is intended as a measure of acknowledgment and as a step towards his meaningful rehabilitation.

10. In view of the facts and circumstances of the case, the instant petition is disposed of, in the following terms:-

1. The judgment of conviction dated 06.11.2004 passed by the learned Additional Sessions Judge, Fatehgarh Sahib is upheld.

2. The order of sentence dated 06.11.2004 is modified/converted to the extent of granting the compensation to the complainant in the terms as mentioned above.

11. A photocopy of this order be sent to learned trial Court for compliance.

**(HARPREET SINGH BRAR)**  
**JUDGE**

**28.04.2025**

*Ajay Goswami*

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*