IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-2312-SB of 2004 (O&M)
Reserved on :05.09.2025
Pronounced on: 24.09.2025.

Krishan and others

.....Appellants

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued by: Mr. Vishal Garg Narwana, Advocate with
Mr. Arishdeep Mradd, Advocate;
Mr. Khushwant Saharan, Advocate;
Ms. Chetana Rao, Advocate;
Ms. Komal Jindal, Advocate;
Mr. P.P.S. Jammu, Advocate
for the appellants.

Mr. Parveen Kumar Aggarwal, Addl. A.G. Haryana.

SURYA PARTAP SINGH, J. (Oral):

Four accused namely Krishan, Rajender, Daya Nand and Krishan stood trial for the commission of offence punishable under Section 307 IPC before the Court of learned Additional Sessions Judge, Sonepat, with regard to a case arising out of the FIR 125/2021, Police Station, Baroda. The above said FIR was for the commission of offence punishable under Section 307/34 IPC read with Section 25 of Arms Act. The above mentioned trial culminating into conviction of above named four accused, who were sentenced to undergo imprisonment for a period of 4 years for the commission of offence under Section 307 IPC. Besides the sentence of imprisonment, the above named

accused were also sentenced to pay a fine of Rs. 5,000/-each, and in default of payment of fine they were directed to undergo imprisonment for 6 months. In addition to above, the accused Krishan son of Daya Nand was sentenced to undergo imprisonment for a period of one year for the commission of offence under Section 25 of Arms Act, also.

2. Aggrieved of the above mentioned judgment of conviction and order of sentence all the four accused had preferred the instant appeal. However, during the course of pendency of this appeal accused namely Krishan son of Daya Nand, Daya Nand son of Lakhi and Krishan son of Surjit have passed away. Resultantly, the sole surviving appellant in the present appeal is Rajender son of Daya Nanda.

3. With regard to above named appellant (Rajender) the custody certificate has been placed on record which shows that the appellant has already served a sentence of imprisonment for a period of one month and one day, with regard to commission of offence. Another relevant contents of above mentioned custody certificate is that the appellant has no criminal antecedents.

4. The appellants have preferred the present appeal against the impugned judgment of conviction and order of sentence, primarily on the ground that an error of judgment has been committed by the learned Trial Court when it failed to appreciate the evidence as well as factual matrix of the case, and that by wrong application of relevant provisions of law erroneously the appellants have been convicted. According to appellants, the learned trial Court ignored the fact that any of the witnesses examined by the learned trial Court has not supported the prosecution case with regard to involvement of

appellants in the commission of crime and, therefore, their statements could not have been used for forming an opinion with regard to their guilt for the offence for which they were charge sheeted.

5. The appellants have further pleaded that, merely on the basis of conjectures and surmises the testimony of prosecution witnesses has been believed and while passing the above mentioned verdict the learned trial Court has ignored the fact that it was the bounden duty of the prosecution to prove all the allegations beyond the shadow of all reasonable doubts. According to appellants, the evidence produced by the prosecution, if tested of the above mentioned touchstone, miserably fails to inspire confidence. In view of above, it has been pleaded by the appellants that the impugned judgment of conviction and order of sentence are not sustainable and deserves to be set aside. Hence, the present appeal.

6. Heard.

7. It has been argued by learned counsel for the appellants that in the present case the entire prosecution case is resting upon the plea that the prosecution witnesses during the course of initial examination had supported the prosecution case, but later on, during the course of re-examination, they resiled from their former stand and testified that the appellants were not involved in the commission of offence. According to learned counsel for the appellants in such circumstances, the only and only inference which could have been drawn by the learned trial Court was against the prosecution, but in the instant case a diametrically opposite view has been formed which needs interference of appellate jurisdiction of this Court.

8. According to learned counsel for the appellants it is apparent on record that before the conclusion of trial, the parties who belong to the same village, had entered into compromise and, therefore, no purpose is going to be served if the sole surviving appellant is directed to undergo imprisonment. According to learned counsel for the appellants if the verdict of learned trial Court is upheld and the sole surviving appellant is directed to undergo simple imprisonment the lasting peace, which has already taken place in the village, will be disrupted and such an atmosphere will never be conducive for harmony in the village.

9. According to learned counsel for the appellants similar view has been taken by this Court in case of **Lal Singh and others Vs. State of Punjab, 2004(1), RCR (Criminal) 630,** wherein permission for compounding of offence was accorded in a case for the commission of offence punishable under Section 307 IPC. Similarly, Hon'ble Supreme Court of India, in the case of **Manjit Singh Vs. State of Punjab and another, Criminal Appeal Nos. 1090 of 2019 and 8293 of 2018 decided on 22.07.2019,** recognized the factum of compromise and reduced the sentence of the period already undergone by the appellant. Similarly in the cases **Jetha Ram Vs. State of Rajasthan, (2006) 9 SCC 255, Murugesan V.Ganapathy Velar, (2001) 10 SCC 504 and Ishwarlal Vs. State of M.P. (2008) 15 SCC 671**, by recognizing the compromise between the parties the sentence awarded to the appellant was reduced to the extent he had already undergone.

10. While referring to the above mentioned precedent it has been contended by learned counsel for the appellants that in the instant case

although at initial level the prosecution witnesses, i.e. PW-1 Ram Niwas and PW-4 Partap Singh had supported the prosecution case but in view of compromise between the parties which is apparent on record, by accepting the appeal of the sole surviving appellant he be acquitted, or in the alternative, if the judgment of conviction is upheld the appellant may be sentenced to undergo imprisonment which he has already undergone.

11. Per contra, the learned State counsel has argued that offence for which the appellants have been convicted is non-compoundable offence and, therefore, permission to compound the offence can not be afforded in the instant case. According to learned State counsel otherwise also for compounding of the offence the petition for quashing of FIR should have been filed. As per learned State counsel in the instant appeal neither there is any application for compounding of offence, nor any petition for quashing of FIR and, therefore, the abovementioned arguments of learned counsel for the appellants are not sustainable.

12. While defending the impugned judgment of conviction and order of sentence it has been argued by learned State counsel that there is no illegality or infirmity in the judgment rendered by the learned trial Court that the that judgment of learned trial Court deserves to be upheld. As per learned State counsel the present appeal is devoid of merits and deserves dismissal.

13. The record has been perused carefully.

14. A careful perusal of the record shows that in the present case initially the injured and eye-witnesses were examined as PW-1 and PW-4, respectively, namely, Ram Niwas and Partap. However, at subsequent stage

when there was a development with regard to compromise between the parties, an application under Section 311 Cr.P.C., was moved by the accused and the same was allowed by the learned trial Court by virtue of order dated 18.10.2004. Thereafter further cross-examination of PW-1 and PW-4 took place wherein the above named witnesses stated that earlier statement made by them in the Court, alleging involvement of appellants in the commission of offence, was made by them under the pressure of police. According to PW-1 when he suffered injury number of persons were present there and few of them had attacked him and inflicted injuries on his person. The PW-1 had further stated that when he suffered injuries after 5-7 minutes his father had arrived at the spot. The most significant fact deposed by the PW-1 during the course of his further cross-examination was that the PW1 has testified that appellants belonged to his village, and that they had not inflicted any injury on his person.

15. It is relevant to mention here that in view of above mentioned part of cross-examination of PW-1, the learned Public Prosecutor exercised his right of re-examination of witness wherein PW-1 stated that on earlier occasion when his statement was recorded by the Court he had not informed the Court about the pressure of police. Similarly, the eye-witness of the occurrence namely Partap Singh (PW-4) when recalled for further cross-examination had deposed that the appellants Krishan and Rajender were known to him being cousins and uncle. According to PW-4 they all belong to to the same village to which PW-4 belonged and that they had not inflicted any injury on the person of Ram Niwas.

16. If the above mentioned part of the testimony of PW-1 and PW-4 is

taken into consideration, it transpires that the above mentioned witnesses had not supported the prosecution case with regard to commission of offence by the appellants. Although this fact cannot be ignored that on earlier occasion the above named witnesses supported the prosecution case with regard to involvement of appellants in the commission of offence, but this part of further cross- examination of PW-1 and PW-4 cannot be ignored. Even if it is assumed that the subsequent version recorded by the Court is not reliable even then the conduct of PW-1 and PW-4 speaks in volumes that they are the witnesses, who were not successful in retaining the same stand and testified against the appellants. Rather, on second occasion they adopted a diametrically opposite approach and exonerated the appellants from the charges. The above mentioned conduct of the appellants at least leads to a conclusion that the testimony of above two witnesses were not reliable and, therefore, it is hereby held that in order to meet the standard meant for success in a criminal case the above mentioned testimony of injured and eye-witnesses were unable to inspire confidence. Thus, holding the appellants guilty on the basis of unreliable evidence, by the learned trial Court, was not in consonance with the settled principles of law.

17. As a sequel to above mentioned observations it is hereby held that the learned trial Court has committed an error of judgment when it relied upon the unreliable testimony of injured and eye-witness, who committed somersault before the trial Court at different point of examination. Hence, finding merit in the contentions raised by the appellants it is hereby held that there is need for indulgence and interference of appellate jurisdiction of this

Court in the verdict rendered by the trial Court. Therefore, finding merit in the instant appeal, the same is hereby accepted and the impugned judgment of conviction and order of sentence are hereby set aside. The sole surviving appellant namely Rajender is hereby acquitted of the charges framed against him.

(SURYA PARTAP SINGH)
JUDGE

Pronounced on: 24.09.2025
Manoj Bhutani

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