

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal No.1913 of 2009**

**PREM SINGH**

**Appellant(s)**

**VERSUS**

**STATE OF HARYANA**

**Respondent(s)**

**OR D E R**

1. Application for impleadment (I.A. No. 153362/2019) is allowed and the applicant is impleaded as respondent no. 2 in this Criminal Appeal.

2. This criminal appeal has been preferred by the appellant-accused against the impugned final judgment and order dated 04.05.2009 passed by the High Court of Punjab & Haryana, Bench at Chandigarh in Criminal Appeal No. 211 SB of 1995, whereby the High Court dismissed the criminal appeal filed by the appellant-accused and confirmed the order of conviction and sentence dated 16.03.1995 as passed by the Trial Court under Sections 326 and 324 of the Indian Penal Code, 1860 (hereinafter referred to as the “**IPC**”) and Section 27 of the Arms Act, 1959 (hereinafter referred to as “**the Act**”). The Trial Court sentenced the appellant-accused to undergo 3 years RI and to pay fine of Rs. 500/- for the offence punishable under

Section 326 of IPC, and in default thereof to further undergo RI for 3 months, to undergo 1 year RI and to pay fine of Rs. 200/- for the offence punishable under Section 324 of IPC, in default thereof to further undergo RI for 1 month and to undergo 2 years RI and to pay fine of Rs. 300/- for the offence punishable under Section 27 of the Act and in default thereof to further undergo RI for 2 months.

3. The factual matrix as advanced by the prosecution, necessary for the disposal of this case is that the families of both the complainant and appellant-accused had strained relations owing to a land dispute which arose in the year 1987. On the day of incident i.e. 24.02.1988, fight broke out between the two groups and appellant-accused also joined the other accused persons in the quarrel. Appellant-accused fired 4 or 5 shots from his gun. The first shot fired by the appellant-accused had struck complainant on his eye, face and shoulder. Other members of the complainant party also received pellet injuries at the hands of the appellant-accused. The injured persons were also beaten by lathis and hockey sticks by the accused persons and severe injuries were sustained. Thereafter, all the injured persons were taken to the hospital and information was given to the police.

4. The trial Court framed charges under Sections 148, 307, 323 and 325 r/w 149 of the IPC and also under Section 27 of the Act, against the appellant-accused along with other accused persons. After examining the witnesses and material available on record, the Trial Court convicted and sentenced the appellant-accused in the manner as mentioned above. Subsequently, the criminal appeal filed before the High Court also stood dismissed, *vide* the impugned order.

5. We have heard the learned Senior counsel appearing for the appellant-accused, the learned counsel appearing for the State of Haryana and the learned counsel appearing for the impleaded respondent No.2 at length today.

6. After hearing the rival submissions advanced by the respective counsel and carefully perusing the material placed on record, we are not inclined to interfere with the order of conviction *qua* appellant-accused. However, taking into consideration the facts and circumstances of the case in hand, we are of the considered opinion that the quantum of sentence imposed upon the appellant-accused by the Courts below needs reconsideration.

7. In this context, the observations of this Court in case of ***Accused 'X'v. State of Maharashtra***, (2019) 7 SCC 1, are relevant

to be noted:

“**49.** Sentencing is appropriate allocation of criminal sanctions, which is mostly given by the judicial branch. [Nicola Padfield, Rod Morgan and Mike Maguire, “Out of Court, Out of Sight? Criminal Sanctions and No Judicial Decision-making”, The Oxford Handbook of Criminology (5th Edn.)] This process occurring at the end of a trial still has a large impact on the efficacy of a criminal justice system. It is established that sentencing is a socio-legal process, wherein a Judge finds an appropriate punishment for the accused considering factual circumstances and equities. In light of the fact that the legislature provided for discretion to the Judges to give punishment, it becomes important to exercise the same in a principled manner. We need to appreciate that a strict fixed punishment approach in sentencing cannot be acceptable, as the Judge needs to have sufficient discretion as well.”

8. Further, in the decision of this Court in the case of ***Jameel***

***v. State of U.P.***, (2010) 12 SCC 532, it has been observed as under:

“**16.** It is the duty of every court to award proper sentence having regard to the nature of the offence and the manner in which it was executed or committed. The sentencing courts are expected to consider all relevant facts and circumstances bearing on the question of sentence and proceed to impose a sentence commensurate with the gravity of the offence.”

9. In the present case, it is an undisputed fact that both the complainant and accused persons belong to the same family. They come from a rural background. There was an earlier enmity between the two parties, owing to a land dispute. It is also on record that the instant matter was a case of free fight, wherein both the parties suffered injuries. Courts below have returned a finding that it cannot be said that the present appellant-accused and others were members of the unlawful assembly or offences were committed in furtherance of their common intention. None of the prosecution witness has deposed that appellant-accused aimed his gun towards any of the witnesses or any other person, who suffered pellet injuries. The appellant-accused is more than 62 years of age as of today.

10. Apart from the above discussion, learned counsel appearing on behalf of respondent No. 2, on instructions, submitted that after the incident, the appellant-accused and the complainant, who are family members, are living together happily and subsequently no incident has taken place.

11. Taking into consideration the aforesaid submission, the fact that the incident took place on 24.02.1988, i.e. more than 30 years ago and particularly that all the other accused persons involved in the incident have either been acquitted or released by giving benefit

of Section 4(1) of the Probation of Offenders Act, 1958, we are of the considered opinion that a lenient view needs to be taken in the matter.

12. In view of the aforementioned discussion, we are of the view that ends of justice would be met if the appellant-accused is sentenced to the period already undergone by imposing a fine of Rs. 3,00,000/- (Rupees Three Lakh only), which shall be deposited with the concerned Trial Court, and be paid to the State of Haryana, within a period of twelve weeks, in default of which, the appellant has to suffer simple imprisonment of three months. Ordered accordingly.

13. The appeal is disposed of in the afore-stated terms.

.....**J.**  
**(N.V. RAMANA)**

.....**J.**  
**(SANJIV KHANNA)**

.....**J.**  
**(KRISHNA MURARI)**

**NEW DELHI;**  
**3RD OCTOBER, 2019.**

ITEM NO.101

COURT NO.3

SECTION II-B

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No.1913/2009

PREM SINGH

Appellant(s)

VERSUS

THE STATE OF HARYANA

Respondent(s)

Date : 03-10-2019 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA  
HON'BLE MR. JUSTICE SANJIV KHANNA  
HON'BLE MR. JUSTICE KRISHNA MURARI

For Appellant(s)

Mr. Chinmay Deshpande, Adv. (A.C.)

Mr. Krishnan Venugopal, Sr. Adv.

Mr. Avinash Sharma, AOR

Mr. Siddharth Singh, Adv.

Mr. Shivendra Singh, Adv.

Mr. Udai Rathore, Adv.

For Respondent(s)

Mr. S. Udaya Kumar Sagar, AAG

Ms. Bina Madhavan, Adv.

Dr. Monika Gusain, AOR

Mr. Rishi Malhotra, AOR

Mr. Utkarsh Singh, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is disposed of in terms of the signed order.

(VISHAL ANAND)  
COURT MASTER (SH)

(RAJ RANI NEGI)  
ASSISTANT REGISTRAR

(Signed Order is placed on the file)