

ITEM NO.115

COURT NO.2

SECTION IIB

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CRIMINAL APPEAL NO(s). 513 OF 2007

JARNAIL SINGH

Appellant (s)

VERSUS

STATE OF HARYANA

Respondent(s)

(With office report)

Date: 10/06/2011

This Appeal was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE B.S. CHAUHAN
HON'BLE MR. JUSTICE SWATANTER KUMAR
[VACATION BENCH]

For Appellant(s)

Mr. Anoop Kumar Shrivastava, Adv.
Mr. Rakesh Khare, Adv.
Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s)

Mr. Rajeev Gaur Naseem, Adv.
Mr. Kamal Mohan Gupta, Adv.

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

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

Having convicted the accused of 304 Part II,
he is awarded a sentence of seven years rigorous
imprisonment and fine of `5,000/- and in default
thereof to undergo six months rigorous

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imprisonment.

Bail bonds are cancelled. He is directed
to surrender before the competent Court/Authority
failing which he shall be arrested so that he
undergoes remaining part of the awarded sentence.

(KALYANI GUPTA)
COURT MASTER

(INDU SATIJA)
COURT MASTER

[SIGNED ORDER IS PLACED ON THE FILE.]

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.513 OF 2007

JARNAIL SINGH	APPELLANT
VERSUS		
STATE OF HARYANA	RESPONDENT

O R D E R

1. The present appeal is directed against the judgment of conviction dated 25th September, 1985.

2. Two accused namely, Bachan Singh and Jarnail Singh were charged with offence under Sections 302, 34, 324, 324 read with Section 34 of the Indian Penal Code.

The trial court vide its judgment dated 14th November, 1984 convicted and sentenced Bachan Singh for an offence punishable under Sections 302, 324, 34 of the Indian Penal Code and awarded him life imprisonment.

The trial court acquitted Jarnail Singh of an offence punishable under Section 302/34 of the IPC, however, convicted him for an offence under Sections 324, 34 and

awarded him sentence of rigorous imprisonment for a

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period of six months. Aggrieved from the judgment of conviction and sentence of the High Court, present

appeal has been preferred.

3. Vide the order of this Court dated 9th April, 2007, the appellant was directed to be released on bail and delay in filing the present appeal was condoned.

4. The learned counsel appearing for the appellant submitted that there was no intention much less a predetermined intention on the part of the appellant to kill the deceased. The appellant had not even caused any injury to the deceased. He further contended that he had not participated or helped the other accused Bachan Singh in causing injuries upon the body of the deceased. However, the appellant had only inflicted simple injury on the body of one Shingara Singh, son of the deceased. According to the learned counsel, keeping in view the medical evidence even the statement of the so-called eye witnesses, it cannot be gathered that there was an intention on the part of the appellant either to kill or even to inflict such injury which would cause death in the normal course of life upon any of the persons, therefore, he could not be convicted under Section 302 of the Indian Penal Code either independently or with the aid of Section 34 of the Code.

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5. It has come in evidence and is clear from the statement of Dr. A.V. Singh who had examined both the deceased as well as the other injured person that no injury had been inflicted either upon the deceased or even on Shingara Singh with a sharp edged weapon. Admittedly, Bachan Singh was carrying the Khasi which is a sharp edged weapon from one side and the other side being blunt. The injuries inflicted upon the deceased were from the blunt side and that is how only

the lacerated wound were found on the body of the deceased. The doctor opined that the weapon used for inflicting such injury was blunt and they could be caused by a khasi used from the reverse side. These circumstances show that there was hardly any intention on the part of them to kill Kundan Singh or any other person for that matter. It was a family feud.

Bachan Singh was not behaving himself and was indulging in drinking habits and creating ruckus at his house thereby police used to come and which was rightly condemned by the father of Bachan Singh. I retaliation and again under the influence of liquor he inflicted the injuries upon his father. The present

appellant was present and he was also under the influence of liquor and inflicted blunt injuries on

Shingara Singh.

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6. Having examined the cumulative effect of the documentary and ocular evidence, in the facts and circumstances of this case, we are of the view that it is not possible to affirm the finding of the High Court that the appellant was liable to be convicted under Section 302/34 of the IPC but this was a fit case where charge could be converted and conviction could be rendered under Section 304 Part II/34 of the IPC.

7. Having convicted the accused of 304 Part II, we award him a sentence of seven years rigorous imprisonment and fine of `5,000/- and in default thereof to undergo six months rigorous imprisonment.

8. Bail bonds are cancelled. He is directed to surrender before the competent Court/Authority failing

which he shall be arrested so that he undergoes remaining part of the awarded sentence.

.....J
[DR. B.S. CHAUHAN]

.....J
[SWATANTER KUMAR]

NEW DELHI
JUNE 10, 2011.