

Randhir Singh and Others Vs. State

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Court : Delhi

Decided On : May-30-2014

Judge : Sanjiv Khanna

Appellant : Randhir Singh and Others

Respondent : State

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI + CRIMINAL APPEAL No.518/2011 Reserved on:

30. h April, 2014 Date of Decision:30th May, 2014 % RANDHIR SINGH & OTHERS Appellant Through Mr. Ramesh Gupta, Sr. Advocate with Mr. Manu Sharma and Mr. Abhir Datt, Advocates for Randhir Singh and Krishan. Mr. D.C. Mathur, Sr. Advocate with Advocate for appellant Chattar Singh. Versus STATE Respondent Through Ms. Rajdipa Behura, Additional Public Prosecutor. CORAM: HON'BLE MR. JUSTICE SANJIV KHANNA HON'BLE MR. JUSTICE G.P. MITTAL SANJIV KHANNA, J: Seven appellants, namely, Randhir Singh, Chattar Singh, Krishan Kumar, Ranbir Singh, Ajay @ Leelu, Netarpal and Jagjit @ Jaggar in the present appeal have impugned their conviction under Sections 148,302,326,308,323 read with Section 149 of the Indian Penal Code, 1860 (IPC for short) by the impugned judgment dated 26th February, 2011 passed in S.C. No.54/09 arising out of FIR No.09/2003 registered under Sections 307/302/201/148/341/506/326/324 IPC at police station J.P. Kalan. Kehar Singh

was also charged, but had expired during the pendency of the trial. Proceedings against Kehar Singh abated vide order dated 27th January, 2011. Impugned Order on the point of sentence dated 11th March, 2011, directs as under:

I accordingly hereby sentence the convicts to undergo imprisonment for life each and to pay fine of Rs.10,000/-each and in default of payment of fine, to further undergo S.I. for six months each for the offence punishable U/s 302/49 IPC. The convicts shall further undergo RI for five years each and pay fine of Rs. 5000/each ID to undergo SI for three months each for offence punishable under Section 308/149IPC. The convicts shall further undergo RI for five years each and pay fine of Rs. 5000/- each ID to undergo SI for three months each for offence punishable under Section 326/149 IPC. The convicts shall further undergo RI for one year each for offence punishable under Section 323/149 IPC. The convicts shall further undergo RI for one year each for offence punishable under Section 148 IPC. All the sentences shall run concurrently. The convicts shall be entitled to benefit of Section 428 Cr. P. C. as per law.

2. Randhir Singh has also preferred Criminal Appeal No.616/2011 against acquittal of Hari Chand, Sant Ram, Prem Kumar, Naveen, Satpal and Sukhchain vide judgment dated 26 th February, 2011 in S.C.No.53/09 arising out of FIR No.73/03, police station J.

P. Kalan under Sections 307/506/34 IPC. Arguments in the two appeals were heard at the same time, but we are dealing with the two cases separately as Criminal Appeal No.616/2011 is a cross case and the judgments impugned in the two cases are separate.

3. The contention of the State, which has been upheld by the Trial Court, is that the appellants herein along with late Kehar Singh, in an unlawful assembly, had caused/inflicted head injury to Anil on 1st February, 2003 leading to his death. The appellants and late Kehar Singh had also caused injury to Naveen resulting in amputation of his two fingers. This had happened when Naveen, Sant Ram (PW-2) and Hari Chand (PW-9) had moved forward to save Anil. The appellants and late Kehar Singh were also responsible for causing simple injuries to Hari Chand (PW-9), Sant Ram (PW-2) and Prem Kumar (PW-1).

4. Homicidal death of Anil consequent upon suffering injuries on 1st February, 2003 has been proved beyond doubt and is virtually undebatable in view of the ocular testimonies of Prem Kumar (PW-1), the eye witnesses and more importantly the testimony of Dr. Anil Jindal (PW-10), CMO, Maharaja Agrasen Hospital, Punjabi Bagh, New Delhi. Sant Ram (PW-2), Naveen kumar (PW3) and Hari Chand (PW9) have also supported the prosecution case. PW-10 has deposed that Anil was brought by his uncle Sant Ram (PW-2) with alleged history of assault by some persons in Ghumman Hera village near Najafgarh. On examination, he noticed incised wound on the back left lateral side and second incised wound approximately 6 inches in length on parieto occipital region with skull fracture. Brain matter could be seen with active bleeding. Anil subsequently expired on 7th February, 2003 at 6 p.m., as per death report Ex.PW22/02. His body was subjected to post mortem which was conducted by Dr. Manoj Nagpal, DDU Hospital. Dr. B.N. Mishra, Medical Officer, Department of Forensic Medicine, DDU Hospital appeared as PW-27 and testified that Dr. Manoj Nagpal had left the hospital and his present whereabouts were not known. He being conversant with signature and handwriting of Dr. Manoj Nagpal, identified and proved the post mortem report, which was marked Ex.PW-27/A. As per the post mortem report, the deceased i.e. Anil had the following injuries:

1. Stitched wound present over the scalp which is perpendicular to the wound No.2 and 3.
2. Bony defects on right parietal region of head with size 3x3cm.
3. Brain matter present below scalp which is infected and foul smelling.
4. Stitched wound approxiated at infra scapular region measuring 6cm on right side.
5. The said post mortem was conducted on 8 th February, 2003 and the time of death as opined was 18 to 22 hours. The post mortem report states that cause death was coma. We agree with the learned counsel for the appellants that coma being described as cause of death is rather vague. But, then we have positive evidence in the form of testimony of PW-27, who after noting the injuries

mentioned above, in response to the Courts question has in clear and categorical terms stated that injuries no.1, 2 and 3 individually as well as collectively were sufficient to cause death in ordinary course of nature. The said opinion was reiterated by PW-27 in cross-examination. For the sake of convenience, we shall be referring to the purported injuries suffered by Prem Kumar (PW-1), Sant Ram (PW-2), Naveen Kumar (PW-3) and Hari Chand (PW-9), separately.

6. The court depositions made by PWs-1, 2, 3 and 9 are in seriatim and without major contradictions. Suffice it would be to refer to the testimony of Prem Kumar (PW-1), who was also the complainant on whose statement, Ex.PW1/A, the FIR in question was registered. PW-1 has testified that on 1st February, 2003 at about 12.30 p.m., he was sitting on their vacant plot while deceased Anil was coming towards the plot from his house. On the way, Chattar Singh, Ranbir Singh and Kishan, who were carrying pharsa, lathi and zaili stopped Anil and questioned him as to why he was interested in purchasing the plot, when the plot actually belonged to them. They objected and stated that they would not allow him to purchase the said plot. Anil protested stating that they had purchased the plot after making payment. Kishan thereupon commented that Anil should be taught a lesson as he was making a lot of noise. Simultaneously, Ranbir cried that they should catch hold of Anil and the issue required no further delay. Kishan and Ranbir caught hold of Anil and Chattar Singh gave pharsa blow on the head of Anil because of which he fell down. PW-1 cried bachaobachao (help-help). Upon this, Naveen (PW-3), Sant Ram (PW-2) and Hari Chand (PW-9) reached the spot. Randhir and Kehar Singh caught hold of Naveens hand and asserted that Naveen professed that he was a strong man and they should hold his hands. Leelu (Ajay) gave pharsa blow on the left hand of Naveen (PW-3) as a result of which his index and middle fingers got amputated. Naveen Kumar (PW3) tried to run away by freeing his hands but, Leelu (Ajay) gave pharsa blow on his head and Kehar Singh also gave a Lathi blow on his head. PW-1 tried to save himself, but Kehar Singh had caught hold of him. Lillu tried to hit PW-1 with pharsa but he managed to avoid the blow and the pharsa hit Kehar Singh on his head. Jhaggar then gave a Lathi blow on the head of PW-1. Netarpal and Jhaggar gave Lathi and Zaili blow to Sant Ram (PW-2) on his left upper arm and head. When Jhaggar attempted another Lathi blow on Sant Ram, he managed to escape and Lathi hit Randhir on his foot.

Sant Ram (PW-2) tried to run away, but Chattar Singh gave a pharsa blow, which hit him on his right hand near the base of thumb. Lillu gave a pharsa blow on the head of Hari Chand (PW-9). PW-1 claimed that they raised alarm bachao-bachao and in the meantime the appellants including late Kehar Singh fled from the spot. Prem Kumar (PW-1) along with Sant Ram (PW-2) took Anil to Orthoplus Hospital in his car. However, the doctors advised him to take Anil to a bigger/better hospital. He then took them to Maharaj Agrasen Hospital, where Anil was medically treated.

7. To avoid repetition, we are not referring to the statements, made by PWs-2, 3 and 9 on similar lines, detailed and explicit, although they are not absolutely identical. Versions as given by PWs-1, 2, 3 and 9, it is apparent are to an extent exacerbated and exaggeration of the actual occurrence, as it clears and vindicates them from injuries suffered by the attackers i.e. the other group. What is important and noticeable in the court deposition of PW-1, are the following facts:(i) That the occurrence had taken place at 12.30 p.m. and Anil was given pharsa blow on his head by Chattar Singh while Kishan and Ranbir had caught hold of him. Kishan was carrying a Zaili and Ranbir had Lathi in his hand. (ii) Sant Ram (PW-2), Naveen (PW-3) and Hari Chand (PW-9) reached the spot after the pharsa blow had been given on the head of Anil by Chattar Singh. (iii) Thereafter, Kehar Singh, Randhir, Lillu, Netarpal and Jhaggar joined in and inflicted injuries by weapons such as Lathi, Pharsa and Zaili. (iv) Prem Kumar (PW-1) along Sant Ram (PW-2) took Anil to Orthoplus Hospital at Najafgarh in his car and as per the advice of the doctors, Anil was taken to Maharaja Agrasen Hospital, Punjabi Bagh. PW-1 had driven the car while PW-2 was present in the car and both of them got Anil admitted in the Maharaja Agrasen Hospital.

8. MLC of Anil, Ex.PW10/A, records that he was brought to the hospital by Sant Ram (PW-2) on 1st February, 2003 at 2.45 p.m. with alleged history of assault on the same day by some people of village Ghumman Hera. It also records presence of Praveen @ Prem Kumar (PW1) as the other person who had brought the injured to the hospital.

9. Prem Kumar (PW-1) in his cross-examination stated that it took about 5 to 6 minutes to reach his house and bring the car for taking Anil to the hospital. They reached Orthoplus Hospital at about 2 p.m. but he did not remember the time when they left the said hospital. He reiterated that the occurrence in which Anil was injured had taken place at 12.30 p.m. Orthoplus Hospital was about 15 kilometers from the place of occurrence and it took about 45 minutes to reach the said hospital. PW-1 has in the cross-examination also deposed that:

Vinod is son of Satbir. I do not know if Vinod had informed the PCR that occurrence was taking place at 12.38 p.m. I further do not know if PCR vehicle had reached the spot at 12.44 p.m. I further do not know if the PCR vehicle had report (sicreported) at 1.20 p.m. to the police control room that there is likelihood of quarrel between Sube Singh and Ghisa Ram with respect to a plot.

PW-1 thus accepted that the occurrence i.e. in which Anil was injured had taken place at 12.30 p.m. as recorded in the FIR.

10. At this stage, it would be important to refer to the statement of ASI Sompal Singh (PW-12), who was Incharge of PCR Vehicle Zebra89. He has deposed that on 1st February, 2003 at about 12.45 p.m. he received information regarding a quarrel at village Ghumman Hera. He reached there with his staff and met one Sube Singh, who told him that a quarrel took place on account of a plot (the said assertion is in past tense). Thereafter, he heard shouts that someone had caught hold of a person of Sube Singhs group. On hearing this, persons belonging to Sube Singhs group ran towards the person, who had been caught and was apprehended by the other group. (For the sake of convenience, we will call the other group as Ghisa Rams group). PW12 also reached there and saw the two groups fighting using Lathi, Bhala and Barcha. It is apparent that it was a free fight. He tried to stop them, but the two groups continued to fight. Somehow, he managed to quell the clash. He then took the appellants Randhir and Kehar Singh to Rao Tula Ram Hospital in the PCR vehicle. Other persons relating to Ghisa Rams group were taken in private cars to some other hospital. PW-12 informed other PCR vehicles regarding the incident. ASI Sompal Singh (PW-12) in his cross-examination has stated that he had reached the spot at 1.10 p.m. and at that

time the two groups were not fighting, but there was tension between the parties. About 8 to 10 persons were present there. Appellants too were present and were standing opposite their own house. At about 1.30 p.m., he heard a member of Sube Singhs group calling out that someone from their group had been caught by Ghisa Rams group. Thereupon, Sube Singhs group ran towards the said spot. Even PW-12 ran alongwith them towards the spot. About 5 to 7 persons of Ghisa Rams group were standing there and the occurrence lasted for about 5 to 7 minutes. PW-12 continuously conveyed messages to the control room. However, he could not tell/remember the time when he gave the last message. He also could not give the identity and names of the members of the two groups. He further deposed that members of the complainant party i.e. Ghisa Rams group were also armed and had caused injuries with Lathi. He accepted that he had taken Randhir Singh and Kehar Singh to the hospital, but he could not state who had caused injuries. He deposed that the injuries sustained by Ghisa Rams group were caused by Sube Singhs group. He had given a copy of the log book to the police. PW-12 has accepted that earlier when Sube Singh spoke to him, he did not possess any weapon.

11. The aforesaid testimony of PW-12 when read with the testimony of Prem Kumar (PW-1), which we have bifurcated as elucidated above, establishes that there were two stages in which occurrence/violence took place. In the first round at about 12.30 p.m on 1 st February, 2003, Anil had suffered injuries at the hands of Kishan and Ranbir, who had caught hold of him while Chattar Singh had given a Pharsa blow upon which he fell down and shouted bachao-bachao. Thereafter, the second occurrence had taken place after at about 1.30 p.m. after ASI Sompal Singh (PW-12) had reached the spot. PW-12 in clear and categorical terms has stated that at about 12.45 p.m. he had received a call regarding a quarrel at village Ghumman Hera and was informed by Sube Singh that quarrel had taken place on account of a plot of land. PW-12 in the cross-examination has accepted that the two groups were not fighting when he had reached the spot at about 1.10 p.m. and the fight started subsequently when one member of the Sube Singhs group was caught by Ghisa Rams group. Thereupon, Sube Singhs group ran towards the said spot, where 5 to 7 members of Ghisa Rams group were standing. The said occurrence lasted for about 5 to 7 minutes and in the said occurrence Randhir and

Kehar Singh were injured and taken to Rao Tula Ram Hospital. Other injured persons of Ghisa Rams group were taken to some other hospital in private cars. The fact that the occurrence had lasted for about 5 to 7 minutes was accepted by Hari Chand (PW-9) in his cross-examination and also by Naveen Kumar (PW-3).

12. The aforesaid facts elucidate that in the second occurrence Ghisa Rams group retaliated as Chattar Singh, Ranbir and Kishan had caused head injury to Anil. The cause of dispute was a piece of land which had been purchased by Sube Singhs group. This is an undisputed fact, accepted and admitted by the learned counsel for the appellants in the present appeal and even by the State. In the second round of violence, which took place in the presence of ASI Sompal Singh (PW-12), appellants Randhir and Kehar Singh had suffered injuries and they were taken by PW-12 in the PCR van to Rao Tula Ram Hospital, a fact which stands proved from the MLC of the said persons marked Ex.PW16/A and 16/B, which were proved by Dr. Rajeev Kumar (PW-16), Medical Officer, Rao Tula Ram Hospital. He deposed that Randhir Singh had suffered the following injuries in a physical assault, which had taken place as per the MLC Ex.PW16/A at about 1.50 p.m. on 1st February, 2003:

- 1) Abrasion on ulnar side of left wrist.
- 2) Abrasion on dorsal side of right foot.
- 3) Abrasion on back of lower third of left leg.
- 4) Swelling and tenderness of right knee.
- 5) Tenderness on back of neck. I opined the nature of injuries as grievous.

Injuries were opined as grievous. The said MLC was recorded at 2.30 p.m. X-ray of the two joint/bones was recommended and there is evidence to show that Randhir had suffered a fracture vide MLC Exhibit PW-16/A.

13. The MLC (Ex.PW16/B) of Kehar Singh is identical on time etc. and records the following injuries:

- 1) Approximately 4 inch x 0.5 cm incised wound on mid line of scalp just above forehead.
- 2) Abrasion on lateral side of upper part of right arm.
- 3) Tenderness on right shoulder.
- 4) Abrasion on lower part of posterior side of right leg.

14. During the second occurrence both the groups had used Lathis, Bhalas and Barcha, though ASI Sompal Singh (PW-12) could not identify which particular person had caused injuries to other particular member of the other group. At this stage, we may notice that the time 1.50 p.m. as recorded in Ex.PW16/A and 16/B was slightly post the actual occurrence and was estimated. We have on the Trial Court record the PCR form which records the communications/messages conveyed by PW-12 to the police control room. The said document is extremely important and was filed by the prosecution and the appellants have relied upon the same. We have marked the same as Exhibit PX. The first call in the control room was received at 12.38 p.m. from Vinod Kumar, who it is stated, is the son of Sube Singh, informed that in village Ghumman Hera a fight was about to begin, and Police should be sent. Recording on the PCR form at 1.22 p.m. is that a fight between Sube Singh and Ghisa Ram was a possibility due to a dispute relating to a plot of land. The next recording at 1.47 p.m. is that SHO should be sent and ACP/DCP should be informed. Another message on or about the same time is that the two parties had started fighting and the Police force should be sent immediately. At 2.09 p.m. it was messaged that two persons were being taken to the hospital. Local police should be sent urgently to the spot. An earlier message at about 1.58 p.m. records that the PCR had crossed Sapla near Najafgarh. The aforesaid PCR form shows that the second fight had taken place between 1.22 and 1.47 p.m. Time of medical examination mentioned in the MLCs Ex.PW16/A and 16/B is 2.35 p.m. Thus, time of occurrence i.e. 12.30 p.m. as deposed to by Prem Kumar (PW-1), Sant Ram (PW-2), Naveen Kumar (PW-3) and Hari Chand (PW-9) refers to the first round/occurrence. At 12.30 p.m. the first occurrence had taken place, in which Anil was given Pharsa blow on his head, which led to his death. It is apparent, therefore, that the statements made by PWs-1, 2, 3 and 9 that there was only one or continuous fight is wrong and exaggeration possibly to

justify their action and the injuries caused to Sube Singhs Group i.e. Randhir Singh and Kehar Singh. They avoided reference to the second incident as a separate one as it could be interpreted as retaliation by the Ghisa Rams group.

15. At this stage, it would be relevant to note the time mentioned in the MLCs of Naveen Kumar (PW-3) and Hari Chand (PW-9), Ex.PW25/B and 25/A, respectively. Time of arrival has been mentioned as 2.20 p.m., and 2 p.m. has been stated to be the time of occurrence. The said MLCs were recorded in Orthoplus Hospital, Najafgarh. As noticed above, Naveen Kumar (PW-3) had suffered amputation of his two fingers. ASI Sompal Singh (PW-12) in his testimony has not mentioned or stated that anyone in the quarrel had suffered a serious head injury and was bleeding profusely. PW-12 was at the spot of occurrence at 1.30 p.m., when he saw the two groups quarrelling and had quelled and stopped the said fight. Randhir Singh, who had suffered fracture, was taken to the hospital along with Kehar Singh of Sube Singhs group. It is apparent from the statement of PW12 that persons of Ghisa Rams group had also suffered injuries and were taken to the hospital. The injured in the said occurrence would be Naveen Kumar (PW-3) and Hari Chand (PW-9). Prem Kumar (PW-1) and Sant Ram (PW-2) were not injured in the second round as they had earlier left the village to take Anil to the hospital.

16. We have already quoted the cross-examination of PW-1, who has stated that he did not know if the PCR van had reached the spot at 12.44 p.m. or reported at 1.20 p.m. In case, PW-1 was present at the spot on the second occasion, he would have certainly noticed the presence of ASI Sompal Singh (PW-12) alongwith the PCR vehicle, which cannot be doubted and be under any debate. Similarly, Sant Ram (PW-2) was not present at the spot on the second occasion when violence took place after 1.30 p.m., after PW-12 had already reached the village.

17. PW-2 in his cross-examination has stated that the place of occurrence was about 10 to 12 yards from his house and was visible. He had seen Prem Kumar (PW-1) along with deceased Anil at the spot. Thereafter, Naveen Kumar (PW-3) and Hari Chand (PW-9) reached the spot. He further claimed that the entire

occurrence took place within 4 to 5 minutes as was accepted by PW-1. Their presence stands proved by medical records of Maharaja Agrasen Hospital i.e. MLC of Anil Ex.PW10/A, which refers to PWs-1 and 2. It is, therefore, held that PW-2 was not present at the time of the second occurrence. PW-1 and PW-2 had first driven injured Anil to Orthoplus Hospital at 2 p.m. and then on advice, proceeded to Maharaja Agrasen Hospital at Punjabi Bagh, which was at a distance of about 25 kilometers from Orthoplus Hospital. They had reached there as per the MLC of Anil Ex.PW10/A at 2.45 p.m., which is also mentioned as the time of examination.

18. Prem Kumar (PW-1) and Sant Ram (PW-2) were examined in Maharaja Agrasen Hospital vide MLCs Mark A and B. It is noticeable that in the MLC mark A, time of arrival has been mentioned as 2.45 p.m./5.30 p.m. Similarly, time of examination in the MLC mark B of Sant Ram is stated as 1st February, 2003 at 2.45/5.40 p.m. For reasons stated below we have disbelieved the injuries allegedly suffered by Prem Kumar (PW1) and Sant Ram (PW2).

19. Learned Additional Public Prosecutor has vehemently argued before us that the versions given by Prem Kumar (PW-1), Sant Ram (PW-2), Naveen Kumar (PW-3) and Hari Chand (PW-9) that there was only one occurrence or incident of violence, should be accepted as it was deposed to by the injured witnesses and the statement of ASI Sompal Singh (PW-12) was an aberration or the only different version and should be ignored and has to be rejected. For several reasons noted above, we are not inclined to accept the said version of PWs-1, 2, 3 and 9. Their depositions, being relatives or injured witnesses, no doubt have to be given due importance and credibility, but we also have to ensure and rule out the possibility of an exaggeration, cover up, etc. especially, when there was a fight between the two groups/families. In the present case, the accused in the FIR in question, who are the appellants before us, had also suffered injuries. As per the FIR and statements of PWs-1, 2, 3 and 9, the first occurrence had taken place at 12.30 p.m. and it lasted for about 5 to 6 minutes. MLCs of the deceased Anil and others when read with testimonies of PW-1 and PW-2 supports and proves the two occurrence version. ASI Sompal Singh (PW-12) is an independent person and a police officer not related or affiliated to any side, who had reached the spot in

question and his contemporaneous communications and messages to the control room establish that the second round of violence took place at about 1.30 p.m. The said contemporaneous communications inspire confidence and are the best evidence, recording the occurrence as it occurred.

20. In the given circumstances of animosity and ill-will between the two groups, we would like to not ignore but will place reliance on the testimony of ASI Sompal Singh (PW-12) as reflective of the true and precise picture of what had transpired. Necessary inferences thereafter have to be drawn. Thus, we would like to accept the testimony of Prem Kumar (PW-1) and Sant Ram (PW-2) that they had seen the first occurrence in which Anil had suffered head injury resulting in his death. They were eye witness, but we observe that they immediately protested and in that process might or might not have suffered a few injuries. Our aforesaid observation in fact would go to the advantage and benefit of PWs-1 and 2 when we will deal with the cross appeal being CrI.A. 616/2011 titled Randhir Singh Vs. Hari Chand and Others.

21. Learned Additional Public Prosecutor laid emphasis on the rukka (Exhibit PW-1/A) and it was highlighted that FIR No.9/2003 was registered at about 6 P.M. and thus the version given by Prem Kumar (PW-1) in the rukka, which talks of one single incident was correct and should be accepted. Our attention was drawn to the findings recorded in the impugned judgment rejecting the testimony of ASI Sompal Singh (PW-12) as an aberration and being contrary to the testimony of the injured eye witnesses and others. Thus, PW-12s testimony deserves to be discarded. We do not agree. As per the FIR and the statement (Exhibit PW-1/A) made by Prem Kumar (PW-1), the occurrence had taken place at 12.30 P.M. We have also noticed the statement of Prem Kumar (PW-1) that he and Sant Ram (PW-2) had initially taken the deceased to Orthoplus Hospital, at about 2 P.M. and then proceeded to Maharaja Agrasen Hospital where they reached at 2.45 P.M. (see MLC Exhibit PW-10/A). There was considerable time gap between 2.45 P.M. and 6 P.M., i.e., when the statement of Prem Kumar (Exhibit PW-1/A) was recorded and rukka was written. It is apparent that MLCs of Prem Kumar (PW-1) and Sant Ram (PW-2) mark A and B were written at Maharaja Agrasen Hospital at about 5.30 P.M. and 5.40 P.M. respectively. In the meanwhile, Naveen Kumar

(PW-3) and Hari Chand (PW-9) were taken to Orthoplus Hospital at 2.20 P.M. as per MLCs Exhibits PW-25/B and 25/A respectively. Thus, by 5 to 5.30 P.M., both Prem Kumar (PW-1) and Sant Ram (PW-2) were aware of the second occurrence and the fact that Naveen Kumar (PW-3) and Hari Chand (PW-9) were taken to Orthoplus Hospital. They were also aware of the injuries, which had been caused and suffered by Randhir Singh and late Kehar Singh as was apparent from MLCs (Exhibits PW-16/A and B). A reading of the rukka would show a deliberate and concerted desire to narrate facts to cover up and to explain injuries caused to Randhir Singh and late Kehar Singh in addition to setting out and stating the facts relating to injuries suffered by Ghisa Rams group, including deceased Anil (Sube Singhs group had also initiated criminal proceedings and cross FIR No.73/2003, Police Station J.P. Kalan was registered resulting in Sessions Case No.53/2009. Hari Chand (PW-9), Sant Ram (PW-2), Prem Kumar (PW1), Naveen Kumar (PW-3), Satpal and Sukhchain were prosecuted. Cross-examination in Sessions Case No.53/2009 would reveal that Ghisa Rams group had propounded and cross-examined the witnesses suggesting that that the initial violence had taken place at 12.30 P.M. on 1st February, 2003 in which Anil was injured and then there was a second occurrence).

22. The FIR No.9/2003 is carefully worded and reflects considerable application of mind before facts were narrated and spelled out. This dents the factual narration and is at the cost of transparency and truthfulness associated with spontaneous and unrehearsed recordings. If the FIR in question is to be believed, then the appellants were not only responsible for injuries to deceased Anil and Naveen (who lost his two fingers of left hand), but also for injuries suffered by members of the Sube Singhs group including fracture suffered by Randhir Singh and injuries on late Kehar Singh. The FIR clearly suffers from exaggeration, cover-up and was a mask for the acts of Ghisa Rams group. The appellants have highlighted suppression of Qayami DD and belated compliance of Section 157 Cr.P.C. after 2 days.

23. The aforesaid aspects have not been taken due notice of in the impugned judgment, in which excessive and complete reliance has been placed upon the testimonies of Prem Kumar (PW-1), Sant Ram (PW-2), Naveen Kumar (PW-3) and

Hari Chand (PW-9) and the testimony of ASI Sompal Singh (PW-12) has been treated as unreliable, untrustworthy and as also self contradictory. It has been observed that Sompals (PW-12) assertion that quarrel had already taken place before he reached the spot, contradicted his latter deposition on quarrel at about 1.30-1.45 P.M. i.e., the second quarrel which took place in the presence of PW-12. The aforesaid error and observation has occurred as the trial court did not bifurcate and notice that there were two occurrences and not one single incident or violence. Trial court did not notice DD Entry No.12A marked Ex.PW20/A, which was recorded at 12.55 P.M. that quarrel had taken place. This was with reference to the first quarrel, whereas the MLCs of the accused Randhir and late Kehar Singh marked Ex.PW16/A and 16/B, respectively, recorded at Rao Tula Ram Hospital at 2.35 P.M. refer to the second quarrel. Similarly, MLCs of Naveen Kumar (PW3) and Hari Chand (PW-9) recorded at 2.20 P.M. at Orthoplus Hospital marked Ex.PW25/B and 25/A, respectively also refers to the second quarrel. Failure to decipher and understand that there were two occurrences has led to the incorrect factual conclusion by the trial court that ASI Sompal (PW-12) had reached the spot after the entire quarrel was already over as deceased was shifted to the hospital by then. It is correct that deceased Anil had been shifted to the hospital by the time ASI Sompal (PW-12) reached the spot as he was injured in the first occurrence. But, the second occurrence happened right in front of and in the presence of ASI Sompal (PW-12).

24. However, the trial court is right in its observation and finding that there is no interpolation in the rukka and the name Randhir has not been changed to Ranbir in the initial portion of the rukka. Trial court has rightly observed in paragraph 34 of the impugned judgment that overwriting is inconsequential as the name Ranbir finds mention at a number of places and acts attributed to him have been clearly elucidated. Thereafter, reference is made to the other assailant Randhir, which is in the latter part of the rukka.

25. Impartiality and fairness in investigation assumes great importance in cases of group clashes with cross cases from both sides as the Court in order to do justice has to identify and ignore embellishments and exaggerations to unravel the truth. This separation of grain from the chaff becomes a tedious task when because of

hazy or slanted investigation, the Court finds that the truth is hidden behind clouded and opaque evidence/material. In a case like the present one, where there were two occurrences and injuries were suffered by both sides, there stands a strong possibility and every chance that the versions given could be partly correct, but not wholly and completely true. The version reflects the slant and one side of the story.

26. The factum that accused Randhir and late Kehar Singh had suffered injuries has clearly come out and established from the testimony of HC Dharamvir (PW-11), who was posted and was on duty at Rao Tula Ram Hospital on 1st February, 2003. In his cross-examination, PW-11 has stated that both Randhir Singh and late Kehar Singh were interrogated in his presence. Earlier PW-11 in the examination-in-chief deposed that he had informed about admission of Randhir and late Kehar Singh and preparation of MLCs to police station Jafarpur Kalan and SI Bhup Singh had prepared rukka and handed over the same for registration of a FIR. PW-11 has mentioned about the statements made by Randhir Singh and late Kehar Singh. However, SI Bhup Singh (PW-22), the initial investigating officer in the present FIR has testified in variance. PW-22 accepts that he had visited Rao Tula Ram Hospital, where Randhir Singh and late Kehar Singh were admitted and had obtained opinion of the doctor whether they were fit for statement, but claimed that Kehar Singh had refused to give statement. PW-22 had initially stated that he had recorded statement of Randhir Singh, but immediately changed his stance and stated that Randhir Singh had also refused to give statement in writing. Therefore, SI Bhup Singh (PW-22) and HC Dharamvir (PW-11) have contradicted each other. PW-22 has also contradicted, ASI Sompal Singh (PW-12) by stating that PW-12 had stated that quarrel was going on when he reached the spot, whereas PW-12 deposed that first round of quarrel was over and second round of violence started after 15 minutes of his reaching the village. SI Bhup Singh (PW-22) statement that he had reached the spot at about 1.00-1.30 P.M. is incorrect as he had certainly not reached the spot till 1.30 P.M. as is apparent from the PCR communications, which prove that till 1.45-1.50 P.M., local police had not reached the spot and only ASI Sompal Singh (PW-12) along with driver of the PCR etc. were present. This is the reason why PW-22 has accepted that by the time he reached the spot, the injured had been taken to the hospital, though he had also

claimed that quarrel was taking place between the family of Sube Singh on the one side and family of Ghisa Ram on the other side. In the cross-examination, PW-22 accepted that by the time he reached the spot, the quarrel had already taken place (see page 4 of the examination of PW-22 in the trial court record).

27. We agree with the trial court that as far as death of Anil is concerned, offence under Section 302 IPC is made out. This is in spite of the fact that Anil died subsequently on 7th February, 2003. What is crystal clear and beyond doubt is that Anil was given a blow on the head resulting in fracture of the skull with brain matter coming out and blood oozing. The fact that Anil remained in the hospital in Coma during this time would not affect the gravity/degree of offence and convert it into culpable homicide not amounting to murder.

28. The second issue/question is as to who were the perpetrators at the first occurrence in which deceased Anil was injured?. The trial court has invoked Sections 148 and 149 IPC and convicted all the seven appellants by applying principle of vicarious liability applicable to unlawful assembly.

29. We have examined the reasoning given by the trial court, but the same cannot be accepted and we cannot proceed on the basis as if there was only one single occurrence. Prem Kumar (PW-1) and Sant Ram (PW-2), who had taken the deceased Anil with them and Naresh (PW6) and Hari Chand (PW-9) have made specific mention of Chattar Singh, Kishan and Ranbir as the persons, who had caught hold of and assaulted Anil resulting in the head injury. The said appellants were attributed with the actual act of violence, be it in form of holding or catching the deceased or inflicting the blow on his head. Others, it was stated, were standing on the side etc. and laughed. We accept the testimonies of Prem Kumar (PW-1), Sant Ram (PW-2), Naresh (PW-6) and Hari Chand (PW-9) to the extent that they have deposed about Chattar Singh, Ranbir Singh and Kishan, but reject their testimonies on presence of the other family members of Sube Singh. This segregation is required and necessary, as there was a second incident or occurrence in which Sube Singhs group and Ghisa Rams group had fought with each other, resulting in injuries to both sides. At the time of the first occurrence when injuries were inflicted on Anil; Chattar Singh, Ranbir Singh and Kishan were

present and had participated. Presence of others, though deposed to, is not accepted being exaggeration and wrong implication as the witnesses have tried to mix up and combine the two occurrences. The prosecution has failed to satisfactorily discharge burden of proof on involvement of others.

30. We also accept the prosecution case that common intention under Section 34 IPC would clearly apply to the aforesaid facts and reject the contention of the appellants Chattar Singh, Ranbir Singh and Kishan that Section 34 should not be invoked. Prem Kumar (PW-1) and Sant Ram (PW-2) have deposed that Chattar Singh had given Pharsa blow on the head of Anil while Kishan and Ranbir Singh caught him. It is also apparent that the aforesaid occurrence had taken place near the plot, which was purchased by Sube Singhs group. The purchase was accepted by Attar Singh (PW-4) as well as the seller Azad Singh (PW-21). PW-21 belongs to the family of Sube Singh and has referred to the documents executed by him, Ex.PW4/A to C and Ex.PW21/A. Appellants Chattar Singh, Kishan and Ranbir Singh in response to questions put to them under Section 313 Cr.P.C. have accepted as correct that there was a dispute about the plot and this was the cause of violence. For the purpose of criminal trial, we are not required to ascertain whether family members of Ghisa Ram were trying to encroach a larger area i.e. the case of the appellants, or whether appellants were trying to stop construction of a wall on the plot purchased by Ghisa Ram group. This was a matter of civil dispute and immaterial or inconsequential for the purpose of present appeal in the context of Section 34 IPC and even under Section 141 read with Sections 148/149 IPC.

31. Common intention was certainly present as is apparent from the words spoken by Kishan and Ranbir at the time of the first occurrence and the manner in which the offence had taken place.

32. On the question of second occurrence, first we have to determine whether conviction under Sections 308/326/323 read with Section 148/149 IPC is justified. The trial court judgment does not specifically mention the injuries, which would be covered under Sections 308/323 and 326 IPC. Injuries suffered by Naveen Kumar (PW-3) as per his deposition and MLC Ex.PW25/B are certainly grave and serious

as he has lost two fingers of the left hand. However, the injuries suffered by Hari Chand (PW-9) as per his MLC Ex.PW25/A, were not serious or grave. Dr. Sudip Saha (PW-25) has deposed on the two MLCs and opined that the injuries suffered by Hari Chand (PW-9) were simple. He had referred to the wound measuring 6 cms 3 cms 2 cms over the mid occipital area in a vertical fashion. PW-25 has stated that patient had transient loss of consciousness, but was discharged on the same day. In cross-examination, PW-25 has stated that the wound suffered by Hari Chand (PW-9) was neither an incised wound nor a stab wound. CRL.A. No.518/2011 PW-9 was moving his four limbs, but was slightly Page 29 of 41 drowsy. PW-25 could not state whether the injury was caused by a blunt weapon. Naveen Kumar (PW-3) as per MLC Ex.PW25/B had a clean lacerated wound on the left parieto occipital area and clear lacerated wound on the right parieto occipital area. The size of the two wounds were 3.5 cms 2 cms 1 cm and 3 cms 2 cms 1 cm. The index finger of the left hand was chopped out from the base and there was incomplete amputation of the middle digit of the left hand, which was amputated under local anaesthesia. The injuries suffered by PW-3 were grievous. On the said aspect, we have also taken into consideration statement made by ASI Sompal Singh (PW12), who had witnessed the second occurrence.

33. Having considered the entire evidence, we feel that for injuries suffered by Naveen Kumar (PW-3), Section 326 IPC should be invoked and for the injuries suffered by Hari Chand (PW-9), Section 323 should be invoked.

34. We have doubt in respect of the injuries suffered in the first round/occasion by Prem Kumar (PW-1) and Sant Ram (PW-2). The reason is simple that their MLCs marked A and B refer to time of treatment as 2.45 P.M. as well as 5.30/5.40 P.M., thus, manifestly indicating that the MLCs were prepared at 5.30/5.40 P.M. The MLCs were not proved and have been given mark A and B. Dr. Anil Jindal (PW-10) no doubt had deposed that Prem Kumar (PW-1) was medically examined and had abrasions on the occipital region and dressing was done. PW-2 it is claimed had one CLW on the right hand scalp haematoma with abrasion was found. Stitching was done. In the cross-examination, PW-10 accepted that Sant Ram (PW-2) could have sustained injuries by falling and the same was also true with regard to the injuries suffered by Prem Kumar (PW-1). Both of them had not stated

as to who were the assailants. He accepted that MLCs mark A and B were prepared at 5.40 P.M. after consultation with the Investigating Officer.

35. In view of the aforesaid factual position, we cannot place reliance on the alleged injuries suffered by PWs-1 and 2, though it is possible that they may have suffered some abrasions. With regard to the first occurrence, injuries suffered by PWs-1 and 2 have not been specifically adverted to and testified in the depositions of PW-1 and PW-2.

36. One of the issues and contentions, which arise for consideration is whether the appellants-Chattar Singh, Kishan, Ranbir Singh, Randhir Singh and Ajay were part of the unlawful assembly along with deceased Kehar Singh as defined in Section 148 read with Section 141 IPC. On the said aspect, we are inclined to accept the finding of the trial court invoking Section 148/149 IPC.

37. For securing conviction under Section 149 IPC, essential ingredients of common object as defined in Section 141 IPC should be established.

38. Interpreting Clause (3) to Section 141 IPC in *Manga @ Mansingh versus State of Uttrakhand*, (2013) 7 SCC629 it has been held that the expression or other offence was not to be read as *eiusdem generis* and taking colour from the offences of mischief or criminal trespass. In other words, the expression or other offence would not be restricted to offences covered by Sections 378 to 462 of Chapter XVII, as giving the said restrictive meaning would be contrary to the legislative intent and purpose. Thus, import of principle of *eiusdem generis* to Section 141, Clause 3, cannot be accepted. The word offence as defined in Section 40 of IPC was more appropriate since it denotes a thing, act or omission made punishable with a term of six months or more under the Code. Thus, the expression other offences used in Section 141, Clause 3, will include and refer to any of the offences referred to in any part of the provisions of IPC for which punishment is provided for a term of six months or upwards,

49. We fail to appreciate as to how simply because the offences mischief or criminal trespass are used preceding the expression other offence in Section 141 Third, it should be taken that such offence would only relate to a minor offence of

mischief or trespass and that the expression other offence should be restricted only to that extent. As pointed out by us above, the offence of mischief and trespass could also be as grave as that of an offence of murder, for which the punishment of life imprisonment can be imposed as provided for under Sections 438, 449, 450, etc. Therefore, we straightaway hold that the argument of the learned Senior Counsel for the appellants to import the principle of ejusdem generis to Section 141 Third, cannot be accepted.

50. The submission of the learned Senior Counsel cannot also be countenanced by applying Section 40 of the Code, which specifically mentions as to how the term offence will have to be construed. In the main clause of the said section it has been clearly set out that the word offence denotes a thing made punishable by this Code except the Chapters and sections mentioned in clauses 2 and 3 of the said section. Therefore, going by the main clause of Section 40, the word offence since denotes the thing made punishable under the Code, other offence mentioned in Section 141 Third, can only denote offences, which are punishable under any of the provisions of the Code. Therefore, by applying the main clause of Section 40, it can be straightaway held that all offences referred to in any of the provisions of the Code for which the punishment is provided for would automatically fall within the expression other offence, which has been used in Section 141 Third.

51. What has been excepted in the main clause of Section 40 are what has been specifically mentioned in clauses 2 and 3 of the said section. As far as clause 2 is concerned, while making reference to Chapter IV and Chapter V-A, as well as other sections mentioned therein, it states that the word offence would denote a thing punishable under the Code, namely, the Penal Code or under any special or local law, which have been defined to mean a law applicable to a particular subject or a law applicable only to a particular part of India. When we read clause 3 of Section 40, Section 141 has been specifically mentioned in the said clause. To understand the purport of the said clause, it will be worthwhile to extract that part of the provision which reads;

40. And in Sections 141, 176, 177, 201, 202, 212, 216 and 441, the word offence has the same meaning when the thing punishable under the special or local law is

punishable under such law with imprisonment for a term of six months or upwards, whether with or without fine.

It is quite apparent that the said clause in regard to the offences under any special or local law, wherein punishment of imprisonment for a term of six months or upwards with or without fine is prescribed, the meaning assigned in those special or local laws is to be imported while invoking Section 141 or other sections mentioned in the said clause 3 of Section 40.

52. Therefore, a conspectus reading of Section 40 makes the position abundantly clear that for all offences punishable under the Penal Code, the main clause of Section 40 would straightaway apply in which event the expression other offence used in Section 141 Third, will have to be construed as any offence for which punishment is prescribed under the Code. To put it differently, whomsoever is proceeded against for any offence punishable under the provisions of the Penal Code, Section 40 clause 1 would straightaway apply for the purpose of construing what the offence is and when it comes to the question of offence under any other special or local law, the aid of clauses 2 and 3 will have to be applied for the purpose of construing the offence for which the accused is proceeded against. Therefore, having regard to clause 1 of Section 40 of the Code read along with Section 141 Third, the argument of the learned Senior Counsel for the appellants will have to be rejected. We are, therefore, of the firm view that only such a construction would be in tune with the purport and intent of the law-makers while defining an unlawful assembly for commission of an offence with a common object, as specified under Section 141 of the Code. In the case on hand, since no special law or local law was attracted and the accused were charged only for the offence under the Penal Code, Section 40(1) gets attracted along with Section 141 Third IPC. Having regard to such a construction of ours on Section 141, read along with Section 40 IPC, the offence found proved against the appellants, namely, falling under Section 302 read with Section 149, Section 307 read with Section 149 along with Sections 147 and 148 of the Code for which the conviction and sentence imposed by the court below cannot be found fault with.

39. It is in this context, we have held that we need not examine and go into the question of criminal trespass etc. for once it is established that the appellants had assembled with lathis, zaili etc. to perpetuate and inflict injuries on Ghisa Rams group, clause 3 of Section 141 IPC would be applicable. We also hold and observe that there were more than five persons present from Sube Singhs group at the time of second occurrence as has been deposed to by ASI Sompal (PW-12). The said witness has deposed that 8-10 persons were present from the Sube Singhs group with lathis, zaili, etc. Thereafter, the two groups clashed. In these circumstances, there cannot be any doubt on the common object, i.e., to inflict injuries and cause physical harm on members of Ghisa Rams group. The object was unlawful. The members of the assembly knew it and were aware that it was likely that members of the said assembly would indulge in criminal acts or were likely to commit acts of violence, which could cause grievous or other injuries to the members of the other group. The fight which took place was to accomplish the said common object of the assembly or at least the members knew that injuries were likely.

40. The effect of Section 149 IPC is to render every member of the unlawful assembly liable for punishment for every offence committed by one or more of its members provided it is shown that the incriminating act was done to accomplish the common object of the unlawful assembly and was within the knowledge of other persons or was one likely to be committed in the prosecution of the common object. If the members of the assembly knew or were aware of likelihood of that particular offence being committed, they would be liable under Section 149 IPC (see *Kuldip Yadav and Others versus State of Bihar*, (2011) 5 SCC324. Thus, the twin requirements of Section 148/149 IPC are fully satisfied.

41. In the present case, we do not think there was a mere possibility of commission of offence as the situation was fairly grave and there was also clear likelihood of physical violence with members of different groups carrying dandas, zaili, etc. Phone call had been made to the police and deposition of ASI Sompal (PW-12) shows that there was tension and everyone knew that there would be violence and physical injuries. This is also clear from the contemporaneous messages conveyed by PW-12 to the control room and his call for sending police

force to quell and stop the violence and bring about calm and peace (see in this regard Rajendra Shantaram Todankar versus State of Maharashtra, (2003) 2 SCC257 State of Punjab versus Sanjiv Kumar, (2007) 9 SCC791 and Ramachandran and Others etc. versus State of Kerala, AIR 2011 SC3581.

42. The next issue, which arises for consideration is, which of the appellants were members of the unlawful assembly responsible for causing injuries to Naveen Kumar (PW-3) and Hari Chand (PW-9) in the second occurrence. With regard to the second occurrence, we have no hesitation in accepting that Chattar Singh, Kishan, Ranbir, Ajay @ Leelu and Randir Singh had participated. In fact, learned counsel for the appellants did not dispute and challenge the presence of Randhir Singh, Chattar Singh, Kishan Kumar and Ajay. Dispute is raised on the presence of Netrapal, Jagjit and Ranbir Singh. We do not agree with the counsel for the appellants that the presence of Ranbir Singh at the time of second occurrence is debatable. Ranbir Singh is the son of Sube Singh. His presence at the place of occurrence along with other family members was normal and natural. It has not been shown that he was at some other place, though the said alibi was taken. On the aspect of presence of Netrapal and Jagjit, we think they should be given benefit of doubt although their names do figure in the FIR. In their statements under Section 313 Cr.P.C., they had claimed to be present in Rohtak as Jagjit was participating in a wrestling contest at village Pakasma. Sukhbir Singh (DW-1) and Baljit Singh (DW-2) have deposed in their favour. They have testified that Jagjit had participated in the wrestling competition and had won Rs.1000/- as prize money. DW-1 was a member of the committee, which had organised the said wrestling competition on 1st February, 2003 at the fair of Baba Mangenath. Deposition of DW-1 is fairly descriptive and realistic though he could not narrate and answer minute and small details as his deposition was recorded on 20th August, 2010, nearly seven years after the occurrence. DW-1 was specific and had only mentioned about appellant-Jagjit and no other person. Examination of his testimony shows that he was reliable, candid and a rustic villager who had stated whatever he knew and remembered. Baljit Singh (DW-2) has similarly deposed and has referred to presence of Jagjit and Netrapal, his brother. Furthermore, he has referred to the wrestling competition and participation of Jagjit. Again he did not remember several aspects, but one cannot be oblivious to the fact that his

statement was recorded on 31st August, 2010, nearly seven years after the occurrence.

43. Thus, Jagjit and Netrapal are acquitted. Randhir Singh and Ajay are also acquitted to the charge of having committed murder of Anil read with Section 34/149 IPC.

44. On the question of sentence, under Section 302 read with Section 34 IPC, we maintain the sentence awarded by the trial court to Chattar Singh, Ranbir and Kishan of imprisonment of life and fine of Rs.10,000/- each, in default of which, they will have to undergo Simple Imprisonment of six months. However, the said conviction is under Section 34 IPC and not read with Section 149 IPC.

45. The last question relates to sentence, which would be awarded to appellants Chattar Singh, Kishan, Ranbir Singh, Randhir Singh and Ajay for offence under Section 323 read with Section 149 IPC for injuries caused to Hari Chand and under Section 326 read with Section 149 IPC for injuries caused to Naveen. The appellants also have to be sentenced under Section 148 IPC.

46. Chattar Singh, Kishan and Ranbir Singh have been sentenced to life imprisonment for the offence under Section 302 read with Section 34 IPC for murder of Anil. Primarily, therefore, we are concerned with the suitable punishment/sentence, which would be awarded to Ajay and Randhir Singh as both of them were released on bail after filing the present appeal upon suspension of sentence. Randhir Singh had already suffered imprisonment of about 2 years, 8 months and 25 days and Ajay had suffered imprisonment of about 3 years, 3 months and 22 days.

47. Keeping in view the aforesaid facts and ensuring that Randhir Singh and Ajay do not have to surrender to undergo any further imprisonment, it is directed as under:(i) Appellants Chattar Singh, Kishan, Ranbir Singh, Randhir Singh and Ajay are sentenced to Rigorous Imprisonment for one year for the offence under Section 323 read with Section 149 IPC. (ii) Appellants Chattar Singh, Kishan, Ranbir Singh, Randhir Singh and Ajay are sentenced to Rigorous Imprisonment of two years for the offence under Section 326 read with Section 149 IPC and fine of

Rs.10,000/- each, in default of which they shall undergo Simple Imprisonment for three months. Fine will be paid by Ajay and Randhir Singh within one month. (iii) For the offence under Section 148/149 IPC, the appellants- Chattar Singh, Kishan, Ranbir Singh, Randhir Singh and Ajay shall undergo Rigorous Imprisonment for one year. The aforesaid sentences shall run concurrently and the appellants will be entitled to benefit of Section 428 Cr.P.C. The appeal is disposed of in the aforesaid terms.-.sd(SANJIV KHANNA) JUDGE -sd(G.P. MITTAL) JUDGE MAY30 2014 NA/VKR

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