

(2010) 11 UK CK 0114

In the Uttarakhand High Court

Case No : Criminal Revision No. 321 of 2001 (Old No. 688 of 1999) and Criminal Appeal No. 1516 of 2001 (Old No. 605 of 1999)

Molhar and Dharamvir

APPELLANT

Vs

State of U.P. (now State of Uttarakhand)
 Molhar
Singh Vs Bangal and Others

RESPONDENT

Date of Decision : 29-11-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 207, 313
Penal Code, 1860 (IPC) — Section 147, 148, 149, 302, 307

Citation : (2011) 1 NCC 317 : (2010) 3 UC 2059 : (2010) 2 UD 598

Hon'ble Judges : Sudhanshu Dhulia, J; Prafulla C. Pant, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, J.—The three criminal appeals mentioned above are directed against the same judgment and order dated 23.03.1999 / 24.03.1999, passed by Addl. Sessions Judge, Roorkee, in Sessions Trial No. 56 of 1992, whereby said court has convicted Appellants Molhar, Kantu, Ompal, Narendra, Inchha Ram, Dharamvir and Ranvir u/s 302 read with Section 149, and u/s 307 read with Section 149 of the Indian Penal Code, 1860 (for short I.P.C.). Accused / Appellants Molhar, Kantu, Ompal, Narendra and Ranvir are further convicted u/s 147 of I.P.C. Each of these five accused, is sentenced to rigorous imprisonment for a period of two years u/s 147 of I.P.C. Each one of the seven accused / Appellants, is sentenced to imprisonment for life and directed to pay fine of Rs. 10,000/- u/s 302/149 of I.P.C., rigorous imprisonment for a period of ten years and directed to pay fine of Rs. 10,000/- u/s 307/149 of I.P.C. Each one of the accused / Appellants Inchha Ram and Dharamvir, has been also convicted u/s 148 of I.P.C., and sentenced to rigorous imprisonment for a period of two years on that count. The Criminal Revision No. 321 of 2001 (old No. 688 of 1999) is filed by the complainant of the cross case, in which the Respondents No. 1 to 6 in said revision, are acquitted by the trial court vide judgment and order dated

23.03.1999, passed in Sessions Trial No. 57 of 1992.

2. Heard learned Counsel for the parties and perused the records of the two sessions trials arisen out of the cross cases of same incident.

3. It is a case of DOUBLE MURDER. Prosecution story, in brief, in Sessions Trial No. 56 of 1992, is that on 19.05.1988, at about 11:00 A.M., accused / Appellants Molhar and Dharamvir caused damage to a MENDH (boundary-mound of field) in Village Kuan Kheda, to which Dile Ram (one of the deceased) objected to, which led to quarrel between the parties who were already in litigation in respect of the field, before the Consolidation Authorities. It is alleged that accused / Appellant Molhar Singh and accused / Appellants Dharamvir were joined by accused / Appellants Kantu, Inchha Ram, Ompal, Narendra, Pehlu and Ranvir. From the side of Dile Ram (one of the deceased) his brother Braham Singh (another deceased) and nephew Bangal Singh (P.W. 2) were at the spot. According to the prosecution case, the accused / Appellants namely, Molhar, Dharamvir, Ranvir, Kantu and his sons Inchha Ram, Ompal and Narendra hurled abuses and started beating Dile Ram, Braham Singh and Bangal Singh with Lathies and spades (PHAWARA). The incident was witnessed by P.W. 3 Mahendra Singh and P.W. 4 Mohan Lal @ Som. On receiving information Ved Pal (one of the sons of Dile Ram) came to the spot and took his injured father (Dile Ram), uncle Braham Singh and his son Bangal Singh (P.W. 2) to Government Hospital at Roorkee, from where the injured were referred to Post Graduate Institute of Medical Sciences at Chandigarh. Out of the three injured, Dile Ram succumbed to the injuries on 24.05.1988 in Chandigarh hospital. Where after the remaining two injured were taken back, and injured Braham Singh was admitted in District Hospital, Saharanpur. He too expired succumbing to injuries on 31.05.1988. Meanwhile, when the injured were at Chandigarh, P.W. 1 Tejpal Singh (another son of Dile Ram) who was in Muzaffarnagar, on the date of incident, lodged first information report (Ext. A -1) at police station Laksar on 23.05.1988, at about 10:15 A.M., against the eight accused, namely Molhar, Dharamvir, Kantu, Inchha Ram, Ompal, Narendra, Pehlu and Ranvir. Before reporting of the incident on 23.05.1988, by Tejpal Singh (P.W. 1), accused Molhar had already lodged a first information report on 20.05.1988, against Dile Ram, Ved Pal, Biram, Bangal, Mahipal, Sahipal, Sher Singh and Kunwar Pal, relating to offences punishable u/s 147, 148, 149, 323, 324 and 307 of I.P.C. at the police station, and Crime No. 65 of 1988 was already registered in respect of the incident. On the basis of the first information report (Ext. A -1) lodged by Tejpal Singh (P.W. 1), the case was registered as Crime No. 65-A of 1988 against accused / Appellants Molhar, Dharamvir, Kantu, Inchha Ram, Ompal, Narendra, Ranvir and one Pehlu, in respect of offences punishable u/s 147, 148, 149, 307, 323, 324 and 504 of I.P.C. After the death of Dile Ram at Chandigarh, the case was converted into one relating to offence punishable u/s 302 of I.P.C., where after another injured (Braham Singh) also died of the injuries. P.W. 8 Sub Inspector D.C. Yadav started the investigation of the case, which was later transferred to P.W. 9 Station House Officer P.C. Pant. Postmortem examination of Dile Ram was conducted at

Chandigarh by P.W. 10 Dr. P.S. Chahal on 26.05.1988, who prepared postmortem examination report (Ext. A -15). Said Medical Officer opined in his report that the deceased had died as a result of ante mortem head injury. Other papers like inquest report relating to body of Dile Ram were also prepared at Chandigarh. After the death of another injured Braham Singh at Saharanpur, his dead body was taken by the Investigating Officer in his possession, who prepared inquest report (Ext. A -16) on 01.06.1988. The Investigating Officer further prepared sketch of the dead body (Ext. A -19), police form No. 13 (Ext. A -20), and other necessary papers, and sent the dead body for postmortem examination. P.W. 5 Dr. R.K. Singhal conducted postmortem examination on dead body of Braham Singh on 01.06.1988 at 03:30 P.M., and prepared postmortem examination report (Ext. A -3). He recorded as many as five ante mortem injuries on the body of Braham Singh and opined that deceased had died of coma due to head injury. Injuries of all the three injured, including Bangal Singh (P.W. 2), was earlier recorded by P.W. 7 Dr. Harish Chandra Dua on the day of incident at Roorkee, who prepared injury reports Ext. A -8, Ext. A -9 and Ext. A -10, in respect of the three injured. The same Medical Officer also recorded injuries of accused / Appellants Molhar, Kantu, Inchha Ram, Ompal and Narendra, and prepared injury reports Ext. B -3 to Ext. B -7. P.W. 8 Sub Inspector D.C. Yadav after interrogating some of the witnesses, inspected the spot, prepared site plan (Ext. A -12). P.W. 9 Inspector P.C. Pant, to whom investigation was transferred, after further interrogating the witnesses submitted charge sheet (Ext. A -14) against the accused / Appellants Molhar, Dharamvir, Kantu, Inchha Ram, Ompal, Narendra, Ranvir and Pehlu, for their trial in respect of offences punishable u/s 147, 148, 149, 323, 324, 307, 302 of I.P.C. In the cross case also, a charge sheet was filed by the Investigating Officer, against the accused of said case.

4. The Magistrate, on receipt of the charge sheets, after giving necessary copies to the accused, as required u/s 207 of Cr.P.C., appears to have committed the two cross cases to the court of sessions, for trial. Accused Pehlu died during the trial, and case as against him stood abated. In Sessions Trial No. 56 of 1992, on 04.05.1993, the trial court (Addl. Sessions Judge, Roorkee) after hearing the parties, framed charge of offence punishable u/s 302 read with Section 149 of I.P.C. for causing death of Braham Singh, another charge of offence punishable u/s 302 read with Section 149 of I.P.C. for causing death of Dile Ram, and for the offence punishable u/s 307 read with Section 149 of I.P.C. for attempting to cause death of Bangal Singh, against accused / Appellants Molhar, Dharamvir, Kantu, Ompal, Inchha Ram, Narendra and Ranvir, to which all the seven accused / Appellants pleaded not guilty, and claimed to be tried. On the very day, the trial court further framed charge of offence punishable u/s 148 of I.P.C. against accused / Appellants Inchha Ram and Dharamvir, to which also, the two pleaded not guilty, and claimed to be tried. On this prosecution (in Sessions Trial No. 56 of 1992) got examined P.W. 1 Tejpal Singh (complainant); P.W. 2 Bangal Singh (injured and eyewitness); P.W. 3 Mahendra Singh (eyewitness), and P.W. 4 Mohan Lal @ Som (eyewitness); P.W. 5 Dr. R.K. Singhal (who conducted

postmortem examination on dead body of Braham Singh); P.W. 6 Constable Jeet Singh (who registered the case and prepared check report of both the cross cases); P.W. 7 Dr. Harish Chandra Dua (who recorded injuries of the accused / Appellants, and injured of this case); P.W. 8 Sub Inspector D.C. Yadav (who started the investigation); P.W. 9 Inspector P.C. Pant (who completed the investigation), and P.W. 10 Dr. P.S. Chahal (who conducted postmortem examination on dead body of Dile Ram). The oral and documentary evidence was put of the accused (present Appellants) u/s 313 of Cr.P.C., in reply to which they alleged that evidence adduced against them was false. However, they admitted that there was a boundary-mound between the fields of the two parties. It is stated by the accused / Appellants that they were falsely implicated due to enmity. In defence, D.W. 1 Mahendra Pal Singh, Inspector, Cane Development Society, was got examined. The trial court after hearing the parties, found all the seven accused (present Appellants) guilty of charge of offences punishable u/s 302 read with Section 149 of I.P.C., Section 307 read with Section 149 of I.P.C., and sentenced each one of them to imprisonment for life and directed to pay fine of Rs. 10,000/- u/s 302/149 of I.P.C., rigorous imprisonment for a period of ten years and directed to pay fine of Rs. 10,000/- u/s 307/149 of I.P.C. Accused Molhar, Kantu, Ompal, Narendra and Ranvir were also held guilty of offence punishable u/s 147 of I.P.C., and each one of them was sentenced to rigorous imprisonment for a period of two years. Accused / Appellants Inchha Ram and Dharamvir were found guilty of offence punishable u/s 148 of I.P.C., and each one of the two, was sentenced to rigorous imprisonment for a period of two years, on said count. Aggrieved by said judgment and order dated 23.03.1999 / 24.03.1999 (passed in Sessions Trial No. 56 of 1992), these three appeals Criminal Appeal No. 1516 of 2001 (old No. 605 of 1999), Criminal Appeal No. 921 of 2001 (old No. 660 of 1999), Criminal Appeal No. 922 of 2001 (old No. 663 of 1999) were filed by the convicts before the Allahabad High Court. Molhar (complainant of Sessions Trial No. 57 of 1992) filed Criminal Revision No. 321 of 2001 (old No. 688 of 1999) before the Allahabad High Court against the judgment and order dated 23.03.1999, passed by the trial court, in Sessions Trial No. 57 of 1992, whereby accused of said case were acquitted. All the three criminal appeals, and the criminal revision were transferred to this Court u/s 35 of the U.P. Re-organization Act, 2000 (Central Act No. 29 of 2000), for their disposal.

5. Before further discussion, we think it just and proper to mention here the injuries found to have been received by Dile Ram (deceased), Braham Singh (deceased) and Bangal Singh (P.W. 2), and accused / Appellants Kantu, Ompal, Narendra and Inchha Ram, by P.W. 7 Dr. Harish Chandra Dua, on 19.05.1988. Injury report (Ext. A -8) which relates to Dile Ram (later died) shows following injuries found on his person by the aforesaid Medical Officer on 19.05.1988, at 04:30 P.M.:

(i) Incised wound 13 1/2 cm X 2 cm X bone deep over parietal region left side extending upto right temporal region. Transversely placed. Margins clear cut,

edges well defined, bleeding present.

The Medical officer (P.W. 7) has observed in Ext. A -8 that the patient (Dile Ram) was unconscious. It is also observed by him that considering the serious condition of the patient the detailed examination was deferred. P.W. 7 Dr. Dua has stated that he referred the patient to Chandigarh Hospital. On the same day (19.05.1988), the same Medical Officer examined injuries of Bangal Singh (P.W. 2) and found on his person following injuries at 05:35 P.M., as recorded by him in Ext. A -9:

- i) Lacerated wound 3 1/2 cm X 1/2 cm X scalp deep over left parietal region of skull 9 cm above medial ends of eyebrow.
- ii) Lacerated wound 2 cm X 1/2 cm X muscle deep in front and middle of right index finger with traumatic swelling 3 cm X 2 cm. Advised X-ray.
- iii) Abrasion 1/2 cm X 1/2 cm over back of middle of index finger with traumatic swelling 2 cm X 1 cm extending upto root. Advised X-ray.
- iv) Linear abrasion 6 cm in length over outer aspect of right upper arm 4 cm below the left shoulder.
- v) Abrasion 2 cm X 1 cm over back of left forearm, below left elbow joint.
- vi) Lacerated wound 3 cm X 1/2 cm X skin deep over outer aspect of left arm 14 cm above left elbow joint.

P.W. 7 Dr. Harish Chandra Dua on 19.05.1988, at 05:00 P.M, examined injuries on person of Braham Singh (later died), and recorded following injuries in Ext. A -10:

- i) Incised wound 13 cm X 2 cm X bone deep over left parietal region of skull extending upto left temporal region 9 cm above left ear. Margins clear cut, edges well defined. Oozing of blood present. Patient conscious.
- ii) Lacerated wound 3 1/2 cm X 1/2 cm X scalp deep over left parietal region of skull 3 1/2 cm behind injury No. (i).
- iii) Lacerated wound 2 1/2 cm X 1/2 cm X bone deep over left parietal region of skull 3 cm behind injury No. (ii).
- iv) Lacerated wound 4 cm X 1/2 cm X scalp deep over right parieto-temporal region of skull 9 cm above right ear.
- v) Lacerated wound 3 1/2 cm X 1/2 cm X muscle deep over back of left forearm 7 cm below left elbow joint.
- vi) Lacerated wound 2 cm X 1/2 cm X muscle deep over back of left elbow joint.

The Medical Officer advised X-ray in respect of injury No. (i), (ii), (iii) and (iv), mentioned above. Injury No. (v) and (vi) were simple. All injuries were fresh in duration. The same Medical Officer (P.W. 7 Dr. H.C. Dua) also examined injuries

on 19.05.1988, found on the person of Kantu, Narendra, Ompal and Inchha Ram (all present accused / Appellants). In Ext. B-3, the aforesaid Medical Officer has found following injuries on person of Kantu at 02:30 P.M.:

- i) Lacerated wound 4 1/2 cm X 1/2 cm X scalp deep over right side parietal region 10 cm above right eyebrow. Margins irregular. Oozing of blood present. Advised X-ray.
- ii) Lacerated wound 3 1/2 cm X 1/2 cm X bone deep, 8 cm above right ear. Margins irregular. Oozing of blood present. Advised X-ray.
- iii) Lacerated wound 2 cm X 1/2 cm X muscle deep over left side face just in front of the left ear.

On the person of Narendra (accused / Appellant), at 02:45 P.M. (on 19.05.1988) P.W. 7 Dr. H.C. Dua found following injuries, which are recorded in Ext. B -4:

- i) Lacerated wound 3 1/2 cm X 1/2 cm X scalp deep over right parietal region of skull. Oozing of blood present. Advised X-ray.
- ii) Incised wound 2 1/2 cm X 4/10 cm X muscle deep over posterior aspect of index finger of right hand. Margins clear cut, edges well defined. Bleeding present.
- iii) Incised wound 1 cm X 2/10 cm X skin deep just below injury No. (ii). Margins clear cut, edges well defined.

On the person of Ompal (accused / Appellant), the Medical Officer (P.W. 7 Dr. H.C. Dua) found following injuries on 19.05.1988, at 03:05 P.M., recorded in Ext. B -5:

- i) Abraded contusion 11 cm X 2 1/2 cm over upper surface of left shoulder.
- ii) Abrasion in an area 3 cm X 2 cm in front of the lateral part of supra clavicular region left.
- iii) Contusion 6 cm X 3 cm over lateral aspect left shoulder.
- iv) Traumatic swelling 5 cm X 4 cm over medial aspect of left foot.

Lastly, on the person of Inchha Ram (accused / Appellant) following injuries were found by the same Medical Officer, at 03:35 P.M., on 19.05.1988, recorded in Ext. B -7:

- i) Lacerated wound 7 cm X 1 cm X bone deep over left parietal region 6 cm above left ear. Margins of the wound are irregular and contused.
- ii) Lacerated wound 1 1/2 cm X 1/2 cm X scalp deep over right occipital region of the skull. 3 1/2 cm behind injury No. (i).
- iii) Lacerated wound 3 1/2 cm X 1/2 cm X scalp deep right side of parietal region 12 cm above top of the right ear.

- iv) Lacerated wound 11/2 cm X 1/2 cm X scalp deep over right parietal region of skull. 8 cm above top of right ear.
- v) Traumatic swelling in an area 18 cm X 8 cm over back of right forearm in upper half of the arm. Advised X-ray.
- vi) Contusion 9 cm X 2 1/2 cm over posterior lateral aspect of right shoulder and adjoining part of right arm.
- vii) Contusion 3 1/2 cm X 2 cm over back right side of scapula region, 14 cm below right shoulder.
- viii) Contusion 6 cm X 2 cm over back of left arm 10 cm above left elbow joint.
- ix) Abrasion 12 cm X 1 cm over posterior medial aspect of left forearm just below elbow joint.
- x) Lacerated wound 3 1/2 cm X 1/2 cm X skin deep over back of thigh just below the gluteal region.

The above mentioned injury reports do indicate that there had been fight between the parties in which injuries were suffered by both sides. Admittedly, cross cases were registered by the parties against each other. This Court has to see who was the aggressor. It is to be further examined, whether, the charge of offence for which the trial court has convicted the accused / Appellants, was found proved on the record against them, or not.

6. P.W. 1 Tejpal Singh (complainant) has stated that he was in Muzaffarnagar on the day of incident (19.05.1988). The witness has further stated describing the pedigree by which accused / Appellants are related with the deceased and the injured. He has further stated that there was a litigation going over the field on which the incident said to have taken place, after it was given to the deceased in consolidation proceedings. He has further stated that after the incident his brother Ved Pal, who went to the field, took the three injured including his father Dile Ram to hospital at Roorkee. After the doctors at Roorkee advised to take the patients to Chandigarh, according to this witness, he (who had come back from Muzaffarnagar) with Ved Pal took his father Dile Ram, uncle Braham Singh, and injured Bangal Singh (P.W. 2) to Chandigarh, where Dile Ram succumbed to injuries. P.W. 1 Tejpal Singh has further proved that he lodged first information report (Ext. A -1) at police station Laksar, on 23.05.1988, after his return from Chandigarh, before Dile Ram died.

7. P.W. 10 Dr. P.S. Chahal of Chandigarh has stated that he conducted postmortem examination on dead body of Dile Ram on 24.05.1988, and prepared autopsy report (Ext. A -15). In said autopsy report it is mentioned that the deceased had died of ante mortem head injury. The injury mentioned in autopsy report (Ext. A -15) i.e. stitched wound 10 cm in length on temporal region corresponds to injury mentioned in Ext. A -8, recorded by Dr. Harish Chandra Dua (P.W. 7) on 19.05.1988, quoted above. As such, it is proved on the record

that Dile Ram died homicidal death on 24.05.1988 due to the injuries suffered by him on his head, on 19.05.1988.

8. It has also come on the record that after death of Dile Ram at Chandigarh, the remaining two injured were brought back, and injured Braham Singh was admitted in Government Hospital, Saharanpur, but he also succumbed to injuries on 31.05.1988, as stated by P.W. 1 Tejpal Singh and corroborated by P.W. 2 Bangal Singh. The postmortem examination on the dead body of Braham Singh was conducted by P.W. 5 Dr. R.K. Singhal on 01.06.1988, who prepared autopsy report (Ext. A -3). He found following ante mortem injuries on the dead body of Braham Singh:

i) 4 cm long stitched wound with four stitches on left side of head 7 cm above the left ear.

ii) 10 cm long oblique stitched wound with stitches on the left side to right side of head 11 cm above the left eyebrow and 13 cm above right ear.

iii) 3 cm long stitched wound with 3 stitches on the right side of head 6 cm above the right ear.

iv) 14 cm X 7 cm healed and oblique contusion, posterior side of left elbow joint.

v) 7.5 cm X 1/2 cm healed wound.

The cause of death according to the Medical Officer (P.W. 5 Dr. R.K. Singhal) is coma due to head injury. The evidence of P.W. 5 Dr. R.K. Singhal read with evidence given by P.W. 7 Dr. Harish Chandra Dua does prove on the record that Braham Singh also died homicidal death on 31.05.1988 on account of ante mortem injuries suffered by him on 19.05.1988.

9. Now, we come to the point as to who caused the injuries on the person of Dile Ram and Braham Singh, which resulted in their death. P.W. 2 Bangal Singh, an injured eyewitness, has stated that on the day of incident (19.05.1988) his grandfather Dile Ram and uncle Braham Singh were working in the sugarcane field when at about 11:00 A.M., accused / Appellants Molhar and Dharamvir damaged the boundary-mound of the field to which Dile Ram objected to, and accused / Appellants Molhar and Dharamvir started hurling abuses. The witness further stated that accused Molhar and Dharamvir called other accused Kantu, Inchha Ram, Narendra, Ompal, Pehlu (since deceased) and Ranvir. He has further stated that Dharamvir and Inchha Ram were armed with SPADE, while the other accused were armed with Lathies. P.W. 2 Bangal Singh further stated that his father Dile Ram, his uncle Braham Singh, and he himself was beaten by the accused with the arms they possessed. The witness further states that to save their lives he also retaliated with Lathi. The witness further states that at the time of incident Mohan Lal @ Som (P.W. 4) and Mahendra (P.W. 3) also came. He also stated that after the incident he along with his father and uncle was taken to Roorkee hospital from where they were taken to Chandigarh for further treatment.

10. P.W. 3 Mahendra Singh and P.W. 4 Mohan Lal @ Som, both eyewitnesses, have corroborated the prosecution case as narrated by injured eyewitness P.W. 2 Bangal Singh. Statement of P.W. 2 Bangal Singh, injured eyewitness, cannot be brushed aside lightly, as his statement gets support from the injury report (Ext. A -9) prepared by P.W. 7 Dr. H.C. Dua, on 19.05.1988 relating to injuries suffered by said witness. The testimony of injured eyewitness Bangal Singh and the two eyewitnesses, namely Mahendra Singh (P.W. 3) and Mohan Lal @ Som (P.W. 4) is natural and trustworthy. In our opinion, the trial court has rightly believed their statements in holding that the accused / Appellants are guilty of charge of offences punishable u/s 302 read with Section 149 of I.P.C. for commission of murder of Dile Ram and Braham Singh, and u/s 307 read with Section 149 of I.P.C. for attempting to commit murder of Bangal Singh. There is ample evidence on record that the seven accused / Appellants had formed unlawful assembly with a common object to commit murder of the two deceased. It is also proved on the record that the accused / Appellants were armed with Lathies and spades.

11. On behalf of the accused / Appellants and the revisionist it is argued that the first information report was lodged by Molhar Singh on 20th of May 1988, while the cross first information report was lodged by P.W. 1 Tejpal Singh, three days thereafter, on 23.05.1988, as such, the true story of the incident is the one given by Molhar Singh in his first information report, and not the one given by complainant against the accused / Appellants before this Court. Having gone through the evidence on record, we are of the view that had there been no explanation for delay in lodging the first information report by P.W. 1 Tejpal Singh, what is argued on behalf of the accused / Appellants and the revisionist could have been taken to be true. But in the present case, P.W. 1 Tejpal Singh has clearly stated that on his coming back from Muzaffarnagar, he took his injured father, injured uncle, and nephew to Chandigarh with Ved Pal, and after he came back from Chandigarh on 23.05.1988, he lodged the first information report. The explanation given by the complainant is natural and the trial court has committed no error of law in accepting the same.

12. It is further contended on behalf of the Appellants and the revisionist, that presence of P.W. 3 Mahendra Singh who claims himself to be eyewitness, at the place of incident, appears to be doubtful as he states that he had gone on that day to cane Society for getting his sugarcane weighed, but D.W. 1 Mahendra Pal Singh, Inspector of the Cane Development Society, has denied that on that day Mahendra Singh had come to get his sugarcane weighed. On close scrutiny of statement of D.W. 1 Mahendra Pal Singh, we find that in his cross-examination he has stated that he is making the statement on the basis of the record. He has further stated that on the record only the person who is member of the Society, his name is entered, and anyone on his behalf can bring the sugarcane for getting it weighed. This statement in cross-examination removes any doubt sought to be created on behalf of the Appellants and the revisionist before this Court.

13. It is further submitted on behalf of the Appellants and the revisionist that accused Narendra and accused Ranvir were minors at the time of incident. However, it appears that no plea of this nature was taken before the trial court, nor anything mentioned in this regard in the ground of appeals before this Court. Apart from this, perusal of the injury report of Narendra (Ext. B -4) prepared by P.W. 7 Dr. H.C. Dua shows that age of Narendra was recorded as 19 years on the day of incident (19.05.1988). Also, copy of the General Diary relating to arrest of the accused Narendra which is Ext. A -7 on the record, shows that Narendra was aged about 20 years at the time of his arrest (25.05.1988). In the circumstances, merely for the reason that the accused / Appellant has disclosed his age 25 years at the time of recording of statement u/s 313 of Cr.P.C., does not entitle him to claim that he was juvenile on the day of incident.

14. Mr. S.K. Aggarwal, Senior Advocate, and Mrs. Pushpa Joshi, Advocate, on behalf of the Appellants further drew attention of this Court as to the injuries of the accused and contended that there is no explanation given in the first information report lodged by Tejpal Singh (P.W. 1), in this connection and as such the version of the incident given by complainant should not be taken to be true. We have carefully gone through the record of the case. Complainant Tejpal Singh is not an eyewitness. The first information report is not an encyclopedia, and it is not necessary that each and everything must be explained in it. P.W. 2 Bangal Singh and P.W. 3 Mahendra Singh have clearly stated that after the accused / Appellants with Lathies and spades assaulted Dile Ram, Braham Singh and Bangal Singh, from the side of Bangal Singh and the deceased, Lathies were used to defend themselves. P.W. 2 Bangal Singh, injured eyewitness, has also stated that his Lathi contained an arc shaped iron blade also. As such, it cannot be said that the injuries on the person of accused are not explained by the prosecution. It has come on the record that in defence injured used Lathies. From the evidence on record it is clearly established that the accused / Appellants were the aggressors, and not the two deceased and Bangal Singh (P.W. 2) who were simply working in their field.

15. Perusal of the record of Sessions Trial No. 57 of 1992, in which the revision is filed by the complainant, shows that though the prosecution witnesses in said case supported the prosecution story, but it was evident that in said case the witnesses admitted that Dile Ram and others asked Molhar Singh and others as to why the boundary-mound was broken by them. It is also admitted in said case that the consolidation case though pending between the parties, but in consolidation operations, the field was given to Dile Ram etc., as such, Dile Ram, Braham Singh and Bangal Singh had no cause to first assault Molhar Singh and others. On weighing evidence of the parties in the light of the cross cases, the trial court rightly found Molhar Singh and others as aggressors, and Molhar Singh revisionist did not come with the correct version of the incident.

16. For the reasons as discussed above, we do not find force in these appeals, and the revision filed by Molhar Singh. Accordingly, the same are liable to be

dismissed. All the three appeals, and the revision are hereby dismissed. Impugned judgment and order dated 23.03.1999 / 24.03.1999, passed by Addl. Sessions Judge, Roorkee, in Sessions Trial No. 56 of 1992 is affirmed. Accused / Appellants are on bail. Their bail is cancelled. Sureties are discharged. The trial court shall take the accused / Appellants in its custody to make them serve out the sentence awarded against them. Lower court record of the three criminal appeals as well as the one relating to the criminal revision be sent back.