

(2019) 05 P&H CK 0267

In the Punjab And Haryana At Chandigarh

Case No : Criminal Appeal No. 1332-DB Of 2015 (O&M)

Sukhdev Singh And Others

APPELLANT

Vs

State Of Punjab

RESPONDENT

Date of Decision : 31-05-2019

Acts Referred:

Indian Penal Code, 1860 — Section 34, 201, 302, 307

Arms Act, 1959 — Section 27, 30

Code Of Criminal Procedure, 1973 — Section 313

Citation : (2019) 05 P&H CK 0267

Hon'ble Judges : Rajiv Sharma, J; Harinder Singh Sidhu, J

Bench : Division Bench

Advocate : S.P.S. Sidhu, S.P.S. Tinna

Final Decision : Partly Allowed

Judgement

1. This appeal is instituted against judgment and order dated 26. 08.2015, rendered by learned Additional Sessions Judge, Tarn Taran, in Criminal Case No. SC/13/11.10.2012, whereby appellants Sukhdev Singh, Dalwinder Singh and Veer Kaur, who were charged with and tried for the offences punishable under Sections 302, 307 and 201 read with Section 34 IPC and Sections 27 and 30 of the Arms Act, were convicted and sentenced as under :-

Name of appellant

Under Section

Sentence

Sukhdev Singh

302 IPC

To undergo life imprisonment and

also to pay fine of Rs. 5,000/- and in

default of payment of fine to
further
undergo
simple
imprisonment for one year.

Dalwinder Singh

302/34 IPC

To undergo life imprisonment and
also to pay fine of Rs. 5,000/- and in
default of payment of fine to
further
undergo
simple
imprisonment for one year.

Veer Kaur

302/34 IPC

To undergo life imprisonment and
also to pay fine of Rs. 5,000/- and in
default of payment of fine to
further
undergo
simple
imprisonment for one year.

Sukhdev Singh

307/34 IPC

To
undergo
rigorous
imprisonment for five years and
also to pay fine of Rs. 5,000/- and in

default of payment of fine to
further
undergo
simple
imprisonment for six months.

Dalwinder Singh

307 IPC

To

undergo
rigorous
imprisonment for five years and
also to pay fine of Rs. 5,000/- and in
default of payment of fine to
further
undergo
simple
imprisonment for six months.

Veer Kaur

307/34 IPC

To

undergo
rigorous
imprisonment for five years and
also to pay fine of Rs. 5,000/- and in
default of payment of fine to
further
undergo
simple
imprisonment for six months.

Sukhdev Singh

201 IPC

To

undergo

rigorous

imprisonment for two years and

also to pay fine of Rs. 1,000/- and in

default of payment of fine to

further

undergo

simple

imprisonment for one month.

Dalwinder Singh

201/34 IPC

To

undergo

rigorous

imprisonment for two years and

also to pay fine of Rs. 1,000/- and in

default of payment of fine to

further

undergo

simple

imprisonment for one month.

Veer Kaur

201/34 IPC

To

undergo

rigorous

imprisonment for two years and

also to pay fine of Rs. 1,000/- and in

default of payment of fine to
further
undergo
simple
imprisonment for one month.

Sukhdev Singh

25/54/59

Arms

To

undergo

rigorous

Act

read

with

imprisonment for three years and

Section 34 IPC

also to pay fine of Rs. 1,000/- and in

default of payment of fine to

further

undergo

simple

imprisonment for two months.

Dalwinder Singh

25/54/59

Arms

To

undergo

rigorous

Act

imprisonment for three years and

also to pay fine of Rs. 1,000/- and in
default of payment of fine to
further
undergo
simple
imprisonment for two months.

Veer Kaur

25/54/59

Arms

To

undergo

rigorous

Act

read

with

imprisonment for three years and

Section 34 IPC

also to pay fine of Rs. 1,000/- and in
default of payment of fine to
further
undergo
simple
imprisonment for two months.

Sukhdev Singh

27/54/59

Arms

To

undergo

rigorous

Act

read
with
imprisonment for three years and
Section 34 IPC
also to pay fine of Rs. 1,000/- and in
default of payment of fine to
further
undergo
simple
imprisonment for two months.

Dalwinder Singh

27/54/59

Arms

To

undergo

rigorous

Act

imprisonment for three years and
also to pay fine of Rs. 1,000/- and in
default of payment of fine to
further
undergo
simple
imprisonment for two months.

Veer Kaur

27/54/59

Arms

To

undergo

rigorous

Act
read
with
imprisonment for three years and
Section 34 IPC
also to pay fine of Rs. 1,000/- and in
default of payment of fine to
further
undergo
simple
imprisonment for two months.

Sukhdev Singh

30/54/59

Arms

To

undergo

rigorous

Act

imprisonment for six months.

Dalwinder Singh

30/54/59

Arms

To

undergo

rigorous

Act

read

with

imprisonment for six months.

Section 34 IPC

Veer Kaur

30/54/59

Arms

To

undergo

rigorous

Act

read

with

imprisonment for six months.

Section 34 IPC

All the sentences were ordered to run concurrently.

2. The case of the prosecution, in a nutshell, is that on 11.06.2012, Inspector/SHO along with his fellow officials was present in the area of Adda Amarkot in connection with patrolling and Nakabandi. He received an information that Sahib Singh son of Mehal Singh resident of village Lakhna had died due to gun shot injury. His body was lying in Dhawan Nursing Home, Bhikhiwind. Immediately thereafter, he along with his colleagues went to the hospital. He found Balbir Singh, brother of deceased, along with his nephew Jajbir Singh present there. Balbir Singh got his statement recorded. According to him, on 08.06.2012, his nephew Jajbir Singh son of deceased Sahib Singh had an altercation with the family of Sukhdev Singh. On 10.06.2012, he along with his brother Sahib Singh and his nephew Jajbir Singh had gone towards their fields to switch on the tubewell on availability of power supply. They were in a jeep. At about 9.00 PM, when they turned towards their fields and were present on the kacha passage, they parked their jeep on one side and started walking towards their tubewell. All of a sudden, Sukhdev Singh armed with .315 bore rifle, his son Paramjit Singh alias Pamma alias Dalwinder Singh carrying 12 bore rifle and Veero wife of Baj Singh unarmed accompanied by 2-3 unidentified persons, who were armed with swords came towards them. Veero raised lalkara. Immediately thereafter, Paramjit Singh alias Pamma alias Dalwinder Singh fired a gun shot with his 12 bore double barrel gun aiming towards them with intention to kill them. But some how or the other, all of them ducked and saved themselves. Thereafter, accused Sukhdev Singh also fired a shot with his .315 bore rifle aiming towards them with intention to kill them. The shot hit into abdomen of his brother Sahib Singh. It pierced through his body. Sahib Singh started bleeding. He and Jajbir Singh raised alarm. All the assailants managed to run away from the spot. He took injured Sahib Singh to Dhawan Nursing Home, Bhikhiwind. Doctor declared him 'brought dead'. The body was sent for post mortem examination. Four spent

cartridges of 12 bore caliber, two green in colour - one scribed with ASTRAM and KF-96 and other with letters KF-Delux scribed thereon, and two spent cartridges of light red colour - one scribed with Shaktiman and another with Shaktiman Express, were collected from the spot. These were converted into a parcel. The investigation was completed and challan was put up after completing all the codal formalities.

3. The prosecution examined a number of witnesses in support of its case. The accused were also examined under Section 313 Cr.P.C. They denied the case of the prosecution. According to them, they were falsely implicated. They examined four witnesses in support of their defence. The appellants were convicted and sentenced, as noticed here-in-above. Hence, these appeals.

4. Learned counsel appearing on behalf of the appellants has vehemently argued that the prosecution has failed to prove its case against his clients. Learned counsel appearing on behalf of the State has supported the judgment and order of the learned Court below.

5. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

6. PW.6 Dr. Satwinder Singh testified that a Board of Doctors consisting of three doctors, including himself, conducted post mortem examination on the body of Sahib Singh on 11.06.2012. They noticed following injuries :-

1. Lacerated wound 2 x 1.7 cm in the right hypochondrium, 8 cm away from the mid line and 15 cm from the right nipple. Margins were inverted, blood clot was present, oozing was present on pressing the wound. On dissection peritoneal cavity contained 80 cc of blood fluid. Abdominal cavity was full of blood fluid and clot. Lacerations were present over the right lobe of liver. Multiple lacerations and perforations were present over the duodenum, jejunum and ileum.

2. Lacerated wound 2 x 2 cm over back of trunk lateral to the spine of T-12 vertebrae towards right side. Margins of the wound were everted. On dissection, on probing injury No.2 corresponding with injury No.1. Fracture of spine of T-12 also present.

The cause of death was due to shock and haemorrhage due to injuries No.1 and 2 which were sufficient to cause death in ordinary course of nature. The injuries were ante mortem in nature and were caused by fire arm. Probable time between injuries and death was immediate and between death and post mortem within 12 to 24 hours. He proved the post mortem report Ex.PW.6/A. In his cross-examination, he deposed that entry wound and exit wound were in the same region of the dead body.

7. PW.1 Jajbir Singh is son of deceased Sahib Singh. He deposed that on 08.06.2012, quarrel had taken place between him and accused Sukhdev Singh for passing the tractor on common kacha path leading to the house of accused Sukhdev Singh. The mother of Sukhdev Singh, namely Veero, raised lalkara. On

10.06.2012, he along with his father Sahib Singh and uncle Balbir Singh went on jeep to their fields to start the tubewell. It was 9.00 PM. They stopped their jeep on the kacha path leading to the house of accused Sukhdev Singh. When they started going to their fields from that path which also leads to their fields, Sukhdev Singh armed with .315 bore rifle, Dalwinder Singh alias Pamma armed with 12 bore rifle and Veero without any arm were present along with 2-3 unidentified persons armed with kirpan. They charged towards them. Veero raised lalkara. Dalwinder Singh alias Pamma fired 12 bore shot with intention to kill them. All of them sat down and saved themselves. Then Sukhdev Singh fired .315 bore gun fire which hit on the abdomen of his father. It went through his body. He collapsed on the ground. They took his father in jeep to Dhawan Nursing Home, Bhikhiwind. In his cross-examination, he deposed that Dalwinder Singh fired a shot from 12 bore gun at a distance of half acre. It was dark at that time. Dalwinder Singh had fired four five shots towards them. They saved themselves by sitting on the road. All the fires were shot one after the other. When he fired first shot, they were in standing position. When the other shots were fired, they were sitting.

8. PW.2 Balbir Singh corroborated the statement of PW.1 Jajbir Singh. According to him, Veero raised lalkara. Paramjit Singh fired 12 bore shot towards them with intention to kill them. They sat down. Thereafter, Sukhdev Singh accused fired shot at the abdomen of Sahib Singh. Sahib Singh fell down. The bullet pierced his body. The accused ran away. Sahib Singh was taken to hospital. In his cross-examination, he admitted that except dispute regarding the passage, there was no other dispute with the accused party. In his further cross-examination, he deposed that the pallets of 12 bore might have fallen near them, when they were hiding. Sahib Singh was at a distance of 2-3 karams when fire shot injury was received by him. They saved themselves by hiding behind the jeep. Some pallets of 12 bore also hit on the front tyres of the jeep. Again said, he did not see any mark of pallet on tyres.

9. PW.3 ASI Jaswinder Pal Singh deposed that accused Sukhdev Singh made disclosure statement Ex.PW.3/A stating that 12 bore DBBL gun used in the occurrence along with .315 bore rifle with armed license was kept concealed by him in the backside box of the bed lying in the room of his house. It was within his knowledge. One 12 bore double barrel gun bearing number 42798-06 and one arms license No. 696 in the name of Sukhdev Singh accused were got recovered by Sukhdev Singh. The gun was put into parcel and sealed by the Investigating Officer with his seal 'SS'. In his cross-examination, he deposed that accused was arrested on 15.06.2012. Accused was alone.

10. PW.5 Inspector Shiv Darshan Singh deposed that he visited the place of occurrence and prepared site plan Ex.PW.5/E. Four empty cartridges of 12 bore, out of which two empty cartridges having words ASTRAM and KF DELUX, both green in colour, and two other empty cartridges - one having words SHAKTIMAN and on the backside SHAKTIMAN EXPRESS, were recovered. All the four

cartridges were having words ASTRAM MAGNA 70 mm and on the backside words KF 97 were written. These were converted into parcel. Clothes of the deceased i.e. one blood stained Kurta Pajama white in colour and one underwear blue were also taken into possession. Sukhdev Singh made another disclosure statement Ex.PW.5/I that he had kept concealed .315 bore rifle, used in the occurrence, under the ground, near the wall of tubewell in his fields which was within his knowledge. The statement was thumb marked by the accused. Accused took the police party to the disclosed place but no gun was found there. Then accused disclosed that he had thrown away .315 bore gun in the river of Harike.

11. PW.7 ASI Nirmal Singh also deposed that from the place of occurrence, four empty cartridges of 12 bore were taken into possession. The Investigating Officer also took into possession blood stained earth and put the same into Dabbi plastic.

12. PW.13 Karwinder Singh deposed that as per the official record, licence No. 696, P.S. Valtaha DM/Amritsar was in the name of Sukhdev Singh son of Baj Singh.

13. PW.16 ASI Saraj Singh deposed that the post mortem was got conducted from a Board of Doctors. The doctor handed over blood stained clothes of Sahib Singh i.e. one Kurta Pajama white in colour and one under wear blue.

14. DW.1 Hardev Singh proved Shajra Aksh of village Lakhana. In his cross-examination, he admitted that katcha road leading from point A to point B was the Government approved katcha rasta. It was not a private road. Ex.DA was not correct depiction as per his record and Ex.DA/1 was correct depiction as per the record brought by him in the court. Khasra No. 86/20 shown in point C in Ex.DA/1 was the ownership of Harbans Kaur widow of Mehal Singh. He also admitted that in Ex.DA although the katcha rasta was shown on the other side but this katcha rasta was Government approved rasta and was not a private road as per the record brought by him in the court.

15. DW.2 Resham Singh deposed that as per the record of log sheet register, on 10.06.2012, three phase electricity was supplied to Theh Sarhali, Assal and Thathi Feeder from 6.00 AM to 12.00 PM. In his cross-examination, he admitted that there was feeder of village Lakhana. The electricity supply was to be given to village Lakhana from 66 KV Sub Station Lakhana. He also admitted that he was not on duty at sub station Lakhana on 10.06.2012.

16. DW.3 Daler Singh deposed that he was coming from village Duhal Kohna on 10.06.2012. When he reached near the farm house of Labh Singh, 7-8 were persons were coming. He slowed down his motor cycle. He saw Milkha Singh and Pargat Singh who were armed with their weapons of .315 bore rifle. They told him that they were going to the farm house of Labh Singh, who was real brother of Pargat Singh. In his cross-examination, he deposed that he had not sent any written request or complaint to any of the senior police officer with regard to the facts stated by him in his examination-in-chief.

17. DW.4 Jasbir Singh deposed that license No. 1417 of 2009 was issued in the name of Pargat Singh.

18. The FSL report is Ex.PW.5/P. The result of examination is as under :-

1. 12 bore DBBL gun bearing No. 42798-06 marked W/1 contained in parcel Rs.B' under reference is in working condition.

2. Two 12 bore Rs.K.F' cartridge cases marked C/1 and C/2 contained in parcel Rs.A' had been fired from left barrel of 12 bore DBBL gun bearing No. 42798-06 marked W/1 contained in parcel Rs.B' referred above.

3. One 12 bore 'Shaktiman Express' cartridge case marked C/3 contained in parcel Rs.A' had been fired from right barrel of 12 bore DBBL gun bearing No. 42798-06 contained in parcel Rs.A' under reference.

4. No definite opinion can be given with respect to 12 bore Shaktiman Express cartridge case marked C/4 contained in parcel Rs.A' as to whether it had been fired from 12 bore DBBL gun bearing No. 42798-06 or not due to lack of sufficient individual characteristic marks.

19. The cause of death, according to PW.6 Dr. Satwinder Singh, was shock and haemorrhage due to ante mortem injuries caused by firearms. Probable time between injuries and death was immediate and between death and post mortem within 12 to 24 hours. In cross-examination, he specifically deposed that the entry wound and exit wound were in the same region of the dead body.

20. PW.1 Jajbir Singh has deposed that he along with his father Sahib Singh and his uncle Balbir Singh had gone towards their fields on 10.06.2012 in a jeep. They went towards their fields. Veero raised lalkara. They were attacked by the accused. Dalwinder Singh fired 12 bore shot with intention to kill them. All of them ducked and saved themselves. Sukhdev Singh fired .315 bore gun fire which hit on the abdomen of his father. His father collapsed. He was taken to Dhawan Nursing Home, Bhikhiwind. In his cross-examination, he specifically stated that Dalwinder Singh fired a shot from 12 bore gun at a distance of half acre. It was dark at that time. Dalwinder Singh fired four-five shots. They saved by sitting on the road. Thereafter, Sukhdev Singh fired from .315 bore rifle.

21. PW.2 Balbir Singh also deposed that Paramjit Singh fired 12 bore shot towards them with intention to kill them. They sat down. Then Sukhdev Singh fired shot with his gun on the abdomen of Sahib Singh. He fell down. In his cross-examination, he deposed that he did not know the range of 12 bore rifle. The pallets of 12 bore might have fallen near them when they were hiding. Sahib Singh was at a distance of 2-3 karams when fire shot injury was received by him. They saved themselves by hiding behind the jeep.

22. According to PW.5 Shiv Darshan Singh, 12 bore rifle was got recovered on the basis of disclosure statement of Sukhdev Singh. Sukhdev Singh also made a disclosure statement that he had kept concealed .315 bore gun. He took the

police party to the disclosed place, but later on told the police that he had thrown the gun in Harike river. It has come on record that as per the statement of PW.13 Karwinder Singh, Sukhdev Singh was having arms licence. The licence was valid from 10.11.2010 to 05.11.2013. The motive attributed to the accused is that PW.1 Jajbir Singh, son of deceased Sahib Singh, had driven his tractor on the passage leading to the house of appellant Sukhdev Singh. Appellant Veer Kaur was 82 years of age at the time of incident. We can take judicial notice of the fact that in this part of the country, women avoid going to fields. Her presence at the spot is doubtful. The role attributed to her is that she had raised lalkara. The case of the prosecution is that appellant Dalwinder Singh alias Paramjit Singh alias Pamma had fired shots at the complainant party. PW.1 Jajbir Singh, in his cross-examination, deposed that appellant Dalwinder Singh had fired four-five shots towards them. PW.2 Balbir Singh deposed that when the shots were fired, they hide themselves. It is not believable that when four-five shots were fired, they were not hit with pellets. The licence belonged to appellant Sukhdev Singh. According to the FSL report, 12 bore DBBL gun was in working condition. Two 12 bore Rs.K.F' cartridge cases marked C/1 and C/2 were fired from left barrel of 12 bore DBBL gun. One 12 bore 'Shaktiman Express' cartridge was fired from right barrel of 12 bore DBBL gun. No definite opinion was given with respect to 12 bore Shaktiman Express cartridge, due to lack of sufficient individual characteristic marks. However, the fact of the matter is that no body was injured by the shot fired from 12 bore DBBL gun. The fatal injury was caused to Sahib Singh by the shot fired by Sukhdev Singh from .315 bore gun.

23. The plea taken by the appellants in their statements under section 313 Cr.P.C. that Pargat Singh and Milkha Singh had fired from their respective .315 bore rifles on Sahib Singh, is not believable. Milkha Singh is father-in-law of deceased Sahib Singh and Pargat Singh is the real brother of deceased Sahib Singh. It could not be a case of mistaken identity. The appellants had never raised this issue with any of the authorities. They had not even taken any step to get the rifles of Pargat Singh and Milkha Singh examined from FSL expert to establish that these guns were used mistakenly by Pargat Singh and Milkha Singh.

24. The fact of the matter is that Sahib Singh died by a shot fired by appellant Sukhdev Singh. It was an individual act. There was no common intention to cause death of Sahib Singh. The only role attributed to appellant Veer Kaur is exhortation. No one was injured from the shot fired by appellant Dalwinder Singh. It has also come in the statement of PW.1 Jajbir Singh that appellant Dalwinder Singh fired a shot from 12 bore gun at a distance of half acre. Thus, he had no intention to kill them.

25. The Division Bench of the Chhatisgarh High Court in Jumman alias Sikandar Ali Vs. State of Madhya Pradesh, 2013 Criminal Law Journal 697 has held that there is no proof that second accused facilitated first accused or assaulted deceased and it is not established that there was common intention in sense of

pre-arranged plan between the two. Accused would be entitled for their own acts only. Accused could not be convicted with aid of Section 34 IPC. The Division Bench held as under :-

"13. So far as sharing of common intention by Jumman (A-1) for commission of murder of deceased Chuggaram is concerned, that also cannot be inferred in light of the evidence of Rajesh Kumar (PW-9), Hetram (PW-3) and Roopchand (PW-7). These witnesses did not depose that Jumman (A-2) either had assaulted the deceased or he in any manner had facilitated Faruook (A-1) to assault the deceased. Though Jumman (A-2) came with Faruook (A-1), but he attacked over Rajesh Kumar (PW-9). For holding Jumman (A-2) liable for commission of murder of the deceased with the aid of Section 34 IPC, it must have been established that there was common intention in the sense of a pre-arranged plan between the two, or such intention had developed on the place of occurrence at the spur of moment prior to commission of the offence. The acts may be different in character, but it should have been proved that they must have been actuated by one and the same common intention in order to attract the provisions of Section 34 IPC, which we do not find in this matter. We are of the view that in the above facts and circumstances of the case, Faruook (A-1) and Jumman (A-2) shall be liable for their own acts; that is to say that Jumman (A-2) cannot be convicted for commission of murder of the deceased with the aid of Section 34 IPC."

26. Their Lordships of the Supreme Court in Jage Ram and others Vs. State of Haryana, (2015) 11 Supreme Court Cases 366 have held that for the purpose of conviction under Section 307 IPC, the prosecution has to establish (i) the intention to commit murder; and (ii) the act done by the accused. The burden is on the prosecution that the accused had attempted to commit the murder of the prosecution witnesses. Their Lordships have held as under :-

"12. For the purpose of conviction under Section 307 IPC, prosecution has to establish (i) the intention to commit murder and (ii) the act done by the accused. The burden is on the prosecution that accused had attempted to commit the murder of the prosecution witness. Whether the accused person intended to commit murder of another person would depend upon the facts and circumstances of each case. To justify a conviction under Section 307 IPC, it is not essential that fatal injury capable of causing death should have been caused. Although the nature of injury actually caused may be of assistance in coming to a finding as to the intention of the accused, such intention may also be adduced from other circumstances. The intention of the accused is to be gathered from the circumstances like the nature of the weapon used, words used by the accused at the time of the incident, motive of the accused, parts of the body where the injury was caused and the nature of injury and severity of the blows given etc.

13. In the case of State of M.P. vs. Kashiram, (2009) 4 SCC 26, the scope of intention for attracting conviction under Section 307 IPC was elaborated and it was held as under :-

"12. ... '13. It is sufficient to justify a conviction under Section 307 if there is present an intent coupled with some overt act in execution thereof. It is not essential that bodily injury capable of causing death should have been inflicted. The section makes a distinction between the act of the accused and its result, if any. The court has to see whether the act, irrespective of its result, was done with the intention or knowledge and under circumstances mentioned in the section. Therefore, an accused charged under Section 307 IPC cannot be acquitted merely because the injuries inflicted on the victim were in the nature of a simple hurt.

14. This position was highlighted in *State of Maharashtra v. Balram Bama Patil*, (1983) 2 SCC 28, *Girija Shanker v. State of U.P.* (2004) 3 SCC 793 and *R. Prakash v. State of Karnataka* (2004) 9 SCC 27.

* **

16. Whether there was intention to kill or knowledge that death will be caused is a question of fact and would depend on the facts of a given case. The circumstances that the injury inflicted by the accused was simple or minor will not by itself rule out application of Section 307 IPC. The determinative question is the intention or knowledge, as the case may be, and not the nature of the injury.'

See *State of M.P. v. Saleem* (2005) 5 SCC 554 pp. 559-60, paras 13-14 and 16.

13. '6. Undue sympathy to impose inadequate sentence would do more harm to the justice system to undermine the public confidence in the efficacy of law and society could not long endure under such serious threats. It is, therefore, 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, etc. This position was illuminatingly stated by this Court in *Sevaka Perumal v. State of T.N.* (1991) 3 SCC 471.' (*Saleem case*, SCC p. 558, para 6)"

14. Having regard to the weapon used for causing the head injuries to Sukhbir, nature of injuries, situs of the injury and the severity of the blows, courts below recorded concurrent findings convicting the second appellant under Section 307 IPC. In our considered view, the conviction of the second appellant Rajbir alias Raju under Section 307 IPC is unassailable."

27. The prosecution has failed to prove its case against appellants Dalwinder Singh and Veero, as projected by it. However, the prosecution has proved its case against appellant Sukhdev Singh beyond reasonable doubt for commission of offence punishable under Sections 302 and 201 IPC and Section 27 of the Arms Act.

28. Accordingly, the appeal is partly allowed. The impugned judgment of conviction and order of sentence dated 26.08.2015 rendered by the trial court qua appellants Dalwinder Singh and Veer Kaur are set aside.

However, the aforesaid judgment and order qua conviction and sentence of appellant Sukhdev Singh for the offences punishable under Sections 302 and 201 IPC as well as 27 of the Arms Act are upheld.