

**(1983) 12 SHI CK 0002**

**In the High Court Of Himachal Pradesh**

**Case No : Criminal As. No's. 7 and 12 of 1982**

Swaran Singh and Others

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

**Date of Decision : 20-12-1983**

**Acts Referred:**

Arms Act, 1959 — Section 27

Criminal Procedure Code, 1973 (CrPC) — Section 154, 173

Penal Code, 1860 (IPC) — Section 148, 149, 307

**Citation : (1983) 12 ILR HP 621**

**Hon'ble Judges : T.R. Handa, J**

**Bench : Single Bench**

**Advocate : M.G. Chitkara, for the Appellant; M.S. Chandel, Assistant A.G., for the Respondent**

## **Judgement**

T.R. Handa, J.—This judgment would dispose of Criminal Appeal No. 7 of 1982 as also Criminal Appeal No. 12 of 1982 since both of them arise out of the same judgment.

2. In Criminal Appeal No. 7 of 1982 there is only one Appellant, namely, Swaran Singh. In the other appeal No. 12 of 1982 there are as many as 8 Appellants, namely, Mohinder Singh, Ram Singh alias Manmohan Singh, Nirmal Singh, Sarvan Singh alias Sarbo, Darshan Singh, Bakhshish Singh, Bhagat Singh, Pritam Singh, Malkiat Singh and Swaran Singh. All these 9 Appellants alongwith one other person Malkiat Singh were jointly tried for the offence under Sections 148, 149 and 307 of the Indian Penal Code. Sarvan Singh alms Sarbo, Appellant No. 4 in Criminal Appeal No. 12 of 1982 was charged for an additional offence falling u/ s 27 of the Indian Arms Act and was tried for this offence also in the same trial. The learned Sessions Judge found all the Appellants guilty of all the offences for which they were charged and tried. He, therefore, convicted them accordingly. The 10th accused person, namely, Malkiat Singh was, however, acquitted of all the charges.

3. With respect to the aforesaid convictions the various Appellants were sentenced as under:

1. Mohinder Singh Each one of the nine 2. Ram Singh alias Manmohan Appellants sentenced to Singh, R.I. for 10 years and a 3. Nirmal Singh, fine of Rs. 500/- under 4. Sarwan Singh alias Sarbo, section 307 read with 5. Darshan Singh, section 149 I.P.C. 6. Bakhshish Singh, 7. Bhagat Singh, Each one of the nine 8. Pritam Singh, and Appellants sentenced to 9. Swaran Singh R.I. for 2 years and a fine of Rs. 500/- under section 148 I.P.C Swaran Singh alias Sarbo Sentenced to R.I. for two years and a fine of Rs. 500/- u/s 27 Indian Arms Act.

The sentences were, however, made to run concurrently.

4. The charges against the Appellants are founded on the allegations that on or about 25-10-1981 at village Haroli falling within the jurisdiction of police station Una, they had formed themselves into an unlawful assembly with the common object of committing the murder of PWs Santokh Singh (P.W. 6), Jit Singh (P.W. 8) and Gurchain Singh (P.W. 9) (hereinafter collectively called the "complainant party"). All the Appellants were then armed with deadly weapons like hatchets, gandasies and lathis which they used in inflicting various injuries to the members of the complainant party. Such injuries were inflicted by the Appellants with the intention and/or knowledge and under such circumstances that if by those acts they had caused the death of any of the members of the complainant party, they would have been guilty of murder. Sarwan Singh alias Sarbo Appellant was further charged for being in possession of a rifle and four live cartridges with intent to use them for unlawful purposes in the course of occurrence.

5. All the Appellants as also the complainant party are residents of the same village Haroli. They had a Gurdwara known as "Gurdwara Baba Kartar Singh" in this village. Santokh Singh (P.W. 6) had worked as a sevadar in this Gurdwara for a number of years before he was succeeded by Swaran Singh Appellant to this office some 3 or 4 years prior to the occurrence. These facts are not in dispute.

6. Now the case of the prosecution insofar as it is relevant for the purposes of these appeals may be briefly stated like this. Swaran Singh Appellant was not maintaining good health and normally he remained ill. He suspected that his ailment was due to some witch-craft practised upon him by P.W. 6 Santokh Singh. This fact had openly been proclaimed by Swaran Singh. Swaran Singh was, therefore, keen to take revenge from Santokh Singh. It was in this background that about 20 or 25 days before the present occurrence, the Appellants arranged a congregation at the house of Appellants Mohinder Singh and Swaran Singh. In that congregation it was decided not only to boycott the family of P.W. Santokh Singh but also teach them a lesson. There was yet another meeting between the Appellants at the house of Mohinder Singh a day before the occurrence on 24-10-1981.

7. On the day of occurrence, that is on 25-10-1981, members of the complainant

party after having worked in their fields proceeded to the village well known as "Sarai Wali Khoohi" for taking water for themselves as also for watering their cattle. S/Shri Nirmal Singh, P.W. 10, and Malkiat Singh, P.W. 7, the minor sons of Jit Singh, P.W. 8, were also with them at that time. Just as two of the buffaloes of the complainant party had taken water at the well, the Appellants who were then all armed with deadly weapons suddenly appeared on the scene. Three of them, namely, Ram Singh, Nirmal Singh and Sarvan Singh, were armed with gandasies, two of them, namely, Mohinder Singh and Darshan Singh were armed with hatchets, and three others, namely, Bakshish Singh, Bhagat Singh and Pritam Singh, were armed lathis. The 9th Appellant Sarvan Singh alias Sarbo had a rifle with him. Immediately on their appearance on the spot, the Appellants Swaran Singh, Ram Singh and Bakshish Singh attacked Santokh Singh (P.W. 6) with their respective weapons and inflicted a number of injuries on his person. Similarly Appellants Nirmal Singh, Darshan Singh and Bhagat Singh attacked P.W. Jit Singh with the various weapons they were carrying and caused a number of injuries to this witness. The Appellant Sarvan Singh alias Sarbo, who was carrying a rifle, was at that time instigating his co-Appellants to finish the complainant party and not to spare anyone of them. P.W. 9, Gurchain Singh, on hearing such shouts of Sarvan Singh and also on seeing the other Appellants attacking his brothers tried to run away. Appellants Mohinder Singh and Pritam Singh then ran after him, overtook him and assaulted him with their respective weapons. As a result of the injuries inflicted on the members of the complainant party by the Appellants, P.W. 8 Jit Singh, and P.W. 9 Gurchain Singh fell unconscious on the ground. The third member of the complainant party, namely, Santokh Singh, also fell down as a result of the injuries suffered by him though he did not lose his consciousness.

8. When the members of the complainant party were being assaulted by the Appellants, P.Ws. Nirmal Singh and Malkiat Singh, the minor sons of P.W. Jit Singh were standing nearby on the platform of the well. They started crying. After the assault the injured persons asked for water in the presence of the Appellants. P.Ws. Nirmal Singh and Malkiat Singh wanted to give water to the injured persons but the Appellants did not permit them to do so saying that the members of the complainant party must die without water. The Appellants then left the place after about half an hour.

9. After departure of the Appellants, P.W. Nirmal Singh went to his brother Satnam Singh, P.W. 13, in his barra and narrated the occurrence to him. Satnam Singh then accompanied Nirmal Singh to the spot where they tried to give water to the injured persons. Only Santokh Singh P.W. took some water but the other two, namely Jit Singh and Gurchain Singh, being unconscious could not be given any water. Malkiat Singh P.W. was then sent to call P.W. 12 Joginder Kaur, the wife of Jit Singh P.W. and mother of P.Ws. Malkiat Singh and Nirmal Singh. Joginder Kaur accompanied by Malkiat Singh then proceeded to the spot. On the way near the barra of Mohinder Singh Appellant, she was stopped by the Appellants Sarvan Singh and Mohinder Singh from going further towards the place of occurrence as these Appellants wanted the injured persons to die a

lingering death without water. Joginder Kaur and her son Malkiat Singh then returned from the barra of Mohinder Singh and reached the spot by a longer route. On seeing the condition of the injured persons P.W. Joginder Kaur deputed her son Satnam Singh to bring some help from the village. None, however, turned up to the rescue of the injured persons. Satnam Singh P.W. then contacted Gurbachan Singh, Pradhan (P.W. 22) and apprised him of this occurrence. The Pradhan found A.S.I. Prithi Chand (P.W. 25) on the road and brought him on the spot. They came there in a truck. After arranging cots on the spot they brought the injured persons to the Primary Health Centre, Haroli, for medical aid. It was at the Primary Health Centre, Haroli, that the statement of P.W. 6 Santokh Singh was recorded u/s 154 of the Code of Criminal Procedure after obtaining the medical opinion that he was in a fit condition to make the statement. The other two injured persons Jit Singh and Gurchain Singh P.Ws. were declared unfit to make a statement. On the advice of the medical officer of Primary Health Centre, Haroli, these injured persons were shifted to Civil Hospital, Una, the same day. They were attended at Una hospital by Dr. P.C. Kaystha (P.W. 2) on whose advice they were later shifted to PGI Chandigarh. Jit Singh P.W. was declared fit to make his statement only on 30-10-1981 and Gurchain Singh on 4-11-1981. It was after they were so declared fit that their statements were recorded in the PGI Chandigarh.

10. In the course of investigation the police got all the members of the complainant party medically examined and also took into possession clothes on their person at the time of the occurrence. The police also visited the spot and collected blood stained earth from there. The Appellants were arrested and blood stained clothes on their person were also taken into possession. Later in pursuance of the statements made by Ram Singh and Mohinder Singh, the weapons of offence were also recovered. All the recovered articles were sent to the Chemical Examiner for examination. After completion of the investigation the police filed a report u/s 173 of the Code of Criminal Procedure against all the Appellants and Malkiat Singh, referred to above, in the Court of Sub-Divisional Judicial Magistrate, Una, who committed all of them to the Court of Sessions to face their trial.

11. The plea of the Appellants was of denial simpliciter. The defence version as made out from the suggestions thrown to the various P.Ws. in their cross-examination was that the three brothers, namely, Santokh Singh (P.W. 6), Jit Singh (P.W. 8) and Gurchain Singh (P.W. 9) had strained relations with each other on account of recovery of money from the parents of Joginder Kaur (P.W. 12) by Santokh Singh P.W. and also due to the fact that Joginder Kaur (P.W. 12) had earlier married Santokh Singh and that it was on account of such strained relations that the three brothers quarrelled with each other in their barra resulting in the injuries found on their persons.

12. At the trial eye witness account of the occurrence was furnished by all the three members of the complainant party, namely, Santokh Singh (P.W. 6), Jit

Singh (P.W. 8) and Gurchain Singh (P.W. 9). Due support to the testimony of these P.Ws. was supplied by the evidence of Malkiat Singh (P.W.7) and Nirmal Singh (P.W. 10), the two minor sons of Jit Singh (P.W. 8). Both these minor witnesses claimed to have seen the entire occurrence from a short distance standing on the platform of the well. Corroboration of the ocular evidence was sought from the evidence of Joginder Kaur (P.W. 12) and Satnam Singh (P.W. 13), who reached the spot soon after the occurrence on receiving information from P.Ws. Malkiat Singh and Nirmal Singh respectively. Further corroboration to the prosecution version was provided by the medical evidence as also the evidence of recovery of various articles like blood stained earth from the spot, blood stained clothes from the persons of the members of the complainant party as also the Appellants, recovery of weapons of offence at the instance of the Appellants and also by the First Information Report which was recorded soon after the occurrence at the instance of Santokh Singh (P.W. 6).

13. I have carefully and minutely scrutinised the evidence adduced in this case and have also objectively considered the arguments advanced on behalf of either side. I have no hesitation in remarking at the very out-set that the convictions of the Appellants, founded as they are on evidence which is overwhelming in volume and unimpeachable in character, are unassailable and above challenge.

14. There is absolutely no room for doubt that all the three members of the complainant party had received multiple injuries of either nature, that is, simple as well as grievous, in some occurrence that took place at or about noon on 25-10-1981. All the three injured persons had been brought at the Primary Health Centre, Haroli, by the police by 3.30 P.M. There they were examined by Dr. Suchha Singh (P.W. 5). After such examination, Dr. Suchha Singh issued certificates Ex. PC, Ex. PD, and Ex. PE in respect of Gurchain Singh (P.W. 9), Jit Singh (P.W. 8) and Santokh Singh (P.W. 6) respectively. According to Dr. Suchha Singh the injuries found on the persons of these P.Ws. were as under:

P.W. 9 Gurchain Singh.

"1. There was clean sharp wound on the scalp 2 3/4" x 1/2" x 1" bone deep just lateral to the saggittal suture in the fronto-parietal region. Advised X-Ray skull. (Declared grievous as a result of X-Ray examination which disclosed fracture of front to parietal region).

2. One sharp edged wound on left leg lateral aspect 1" long 0-2" deep and 1-1/2" above the lateral malleolus.

3. One clean lacerated wound on right pattelar region 0.5"x0.5" size.

4. Swelling on left testicular region and testes.

15. As per this doctor injuries Nos. 1 and 2 were caused by a sharp-edged weapon and the remaining by a blunt weapon.

Jit Singh (P.W. 8).

"1. One clean cut wound on left leg anterior aspect about 6" proximal to medial malleolus, shin region of the size of 2-1/2"x 1"x1/2".

2. Swelling in the right knee joint region, movements were painful. He was advised X-Ray of knee joint region. (Declared grievous as the X-Ray examination showed fracture of lateral condyle of right femur with fracture of upper end of fibula on the right end side).

3. One clean cut wound on left shin region 2"x0.5"x0.5" size in middle of leg left.

4. One clean cut wound on left shin region 1"x0.5"x0.5" size. 1" distal to the tibial tuberosity.

5. One clean lacerated wound 0.5"x0.5" on dorsum of hand right in the line of index finger.

6. One clean lacerated wound on right forearm, dorsal aspect 4-1/2" proximal to medial tubercle, i.e. lower end of ulna.

7. One clean cut wound over left acromion region of the size of 2"x0.5"x0.5" bone deep. Advised X-Ray left collar bone region for any involvement of bone.

8. One stabbing injury (clean cut) 0.5"x1" deep on postero lateral aspect of left forearm in the middle part of it, associated with swelling. Advised X-Ray of the region.

9. One clean cut wound over right acromion region 2-1/2"x1"x1" size, bone deep. Advised X-Ray. (Declared grievous as the X-Ray examination revealed fracture of lateral end of right clavicle).

10. One clean cut wound over scalp -1/2"x1/2" bone deep on the left lateral side of region of sagittal suture. Advised X-Ray skull. (Declared grievous as X-Ray examination revealed fracture of frontal bone)."

16. Injuries Nos. 2, 5 and 6 were, as per medical evidence, caused by blunt weapon and the remaining injuries were caused by sharp-edged weapon.

Santokh Singh (P.W. 6).

"1. One clean cut wound over the scalp on the occipito parietal region of the size of 2-V=2i"x0.5"x size just lateral to be sagittal suture obliquely placed 5" away from hairline in the region of forehead. Advised X-Ray skull.

2. Lower 3rd right tooth was found to be mobile. There was adjoining injury of lip and gum. He was advised to have the opinion of the Dental Surgeon. (Declared grievous).

3. One lacerated wound on right pinna of the size 0.5"x 0.5" size on the outer aspect.

4. Two abrasions on right side neck obliquely placed of the size of 2"x1" size.

5. One abrasion of right arm, lower lateral aspect about 3" above the elbow joint line.
6. One abrasion on left index finger region of the size of 0.5" long on proximal phalynx.
7. Swelling of left forearm. On examination, there was then said appeared to be fracture of both bone of the left forearm. He was advised X-Ray. (Declared grievous as a result of X-Ray examination).
8. One clean cut wound of the size of 2"x0.5"x0.5" on the right shin region 2-1/2" distal to the tibial tuberosity.
9. One clean cut wound 1/2"x1/2" size on the right shin in the mid of right leg.
10. One clean cut wound on the-dorsoplantar region on right foot of the size of 3"x1"x1" size.
11. Swelling in right knee joint region. On examination nothing abnormal detected".
17. Injuries Nos. 2 to 7 and 11 were caused, according to the medical opinion, by a blunt weapon and the remaining injuries by a sharp-edged weapon.
18. After seeing the weapons of offence, namely, Kulharies Ex. P-16 and Ex. P-17 and gandasies Ex. P-18 to Ex. P-20, the doctor stated that the injuries which he had opined as having been caused by sharp-edged weapons on the persons of the P.Ws. could have been caused by these weapons.
19. The only controversial question which calls for consideration in this case is whether the injuries found on the person s of Santokh Singh (P.W. 6), Jit Singh (P.W. 8) and Gurchain Singh (P.W. 9) had been caused by the Appellants. Undoubtedly the best persons who could throw light on this question are the injured persons themselves. Each one of these persons, viz. Santokh Singh, Jit Singh and Gurchain Singh, P.Ws. 6, 8 and 9, appeared in the witness box and gave a vivid and consistent account of the entire occurrence. As per the common version of all these P.Ws. they had gone to the "Sarai Wali Khoohi" at about noon on the day of occurrence for taking water for themselves as also for watering their buffaloes. PWs Malkiat Singh and Nirmal Singh, the minor sons of Jit Singh P.W., were also accompanying them. Soon after all the 9 Appellants duly armed appeared on the spot. Appellants Swaran Singh, Nirmal Singh and Ram Singh were armed with gandasies, Appellants Darshan Singh and Mohinder Singh with kulharies, Bakshish Singh, Bhagat Singh and Mohinder Singh with lathis. Appellant Sarvan Singh alias Sarbo was armed with a gun. All these witnesses then deposed in one voice that immediately on their arrival Appellants Swaran Singh, Ram Singh and Bakshish Singh attacked Santokh Singh (P.W. 6) and simultaneously Appellants Nirmal Singh, Darshan Singh and Bhagat Singh attacked Jit Singh (P.W. 8). All these Appellants used their respective weapons in such attacks. Gurchain Singh (P.W. 9) made an effort to run away but he was

chased by the Appellants Mohinder Singh and Pritam Singh who caught him and then inflicted blows with their respective weapons on his person. Appellant Sarvan Singh alias Sarbo, who was armed with a gun, stood nearby instigating his co-accused/Appellants to kill the members of the complainant party and not to spare any one of them. As a result of the injuries suffered by them all the three members of the complainant party fell down on the ground. Two of them, namely, Jit Singh (P.W. 8) and Gurchain Singh (P.W. 9), became unconscious. Despite this the Appellants continued giving indiscriminate blows to the injured persons. Thereafter the Appellants went away. These witnesses were subjected to searching cross-examinations but nothing material could be extracted out of them which could shake their credit. The two minor witnesses Malkiat Singh (P.W. 7) and Nirmal Singh (P.W. 10) also supported fully the above version. P.W. 10 Nirmal Singh further states that after the Appellants left the spot, he went to his barra and brought his brother Satnam Singh (P.W. 13) after narrating the incident to him. After the return of P.W. Nirmal Singh with his brother Satnam Singh, Malkiat Singh P.W. was deputed to bring his mother Joginder Kaur from his house. The barra of Mohinder Singh Appellant falls on the way from the house of the complainant party to the spot of occurrence. According to the version of P.W. Nirmal Singh, which is duly supported by Joginder Kaur (P.W. 12), when these witnesses reached near the barra of Mohinder Singh Appellant on their way to the spot, they were stopped by Mohinder Singh and Sarvan Singh Appellants and not allowed to proceed further. These Appellants had abused these witnesses and had also told them that the injured persons were to made to die without water. P.W. Malkiat Singh and his mother P.W. 12 Joginder Kaur had then to return and go to the spot by adopting a longer route.

20. After the arrival of Joginder Kaur, P.W. 12, Satnam Singh, P.W. 13, was deputed to bring some help from the village. This is found in the evidence of Joginder Kaur, P.W. 12, Satnam Singh, P.W. 13, as also in the evidence of P.W. 10 Nirmal Singh. It is then found from the evidence of Satnam Singh, P.W. 13, that he having failed to bring any help from the village approached the Pradhan Gurbachan Singh, P.W. 22, and narrated the occurrence to him. The Pradhan brought the police to the spot in a truck. The police reached there at about 3 P.M. Then some cots were arranged from the village, the injured persons were put thereon and shifted from the spot to the Primary Health Centre, Haroli, in the same truck.

21. Gurbachan Singh (P.W. 22), Pradhan, proves the various recoveries made in this case. According to him the police collected blood stained earth and stones from the spot of occurrence and made them into sealed parcels (Ex. P-27 to Ex. P-29). The Appellants were arrested on 26-10-1981 and after their arrest the shirt and pant from the person of Ram Singh Appellant was taken into possession vide recovery memo. Ex. PM/21. Similarly the shirt of Nirmal Singh Appellant was taken into possession vide recovery memo. Ex. PM/2. Shirt of Darshan Singh Appellant was taken into possession vide recovery memo. Ex. PM/3 and a pair of shoes from the person of Mohinder Singh Appellant was also taken into



possession vide recovery memo. Ex. PM/4. Subsequently in pursuance of the disclosure statement Ex. PN made by Ram Singh Appellant, a gandasī was recovered from underneath the earth behind the house of this Appellant. Mohinder Singh Appellant also made disclosure statement in pursuance of which two kulharies, two gandasies and three lathis were recovered from behind a wooden almirah inside the house of this Appellant. All these articles were sent to the Chemical Examiner whose report Ex. PS shows that they all were found to bear stains of blood. These articles were then passed on to the Serologist and Chemical Examiner to the Government of India who opined that the earth and stones recovered from the spot, form of the weapons of offence and all the clothes and the pair of shoes recovered from the persons of the Appellants except one shirt were stained with human blood.

22. The Investigating Officer Prithi Chand (P.W. 25) who was then incharge of police post, Haroli, also gave full support to the oral evidence of the eye witnesses as discussed above. This witness reached the spot at about 3 P.M. on being apprised about the same by Pradhan Gurbachan Singh (P.W. 22). Immediately on his arrival he sent for three cots from the village and then shifted the injured persons to the Primary Health Centre, Haroli, in the same truck in which he had come. He then filed applications Ex. PF, Ex PF/1 and Ex. PF/2 concerning the three injured persons before the medical officer in order to know if they were in a fit condition to make their statements. The doctor certified Santokh Singh (P.W. 6) only as fit to make a statement. He then recorded the statement of Santokh Singh u/s 154 of the Code of Criminal Procedure which is found at Ex. PG. This statement Ex. PG which is the earliest version of the occurrence is in complete agreement with the oral evidence adduced at the trial.

23. The eye witnesses examined in this case are the most natural witnesses. As stated earlier, they have given vivid and consistent account of the occurrence. No discrepancy could be pointed out in their evidence. The medical evidence fully supports the ocular evidence. The recovery of earth and stones from the spot which were later on found stained with human blood would corroborate the oral version with respect to the spot of occurrence. Similarly the recovery of the weapons of offence bearing stains of human blood at the instance of the Appellants would also show involvement of all the Appellants in the offence. As many as 8 weapons of offence, as deposed by the eye witnesses, were recovered. The 9th Appellant was alleged to carry a gun which was not used in the course of the occurrence. There appears to be absolutely no reason to doubt the veracity of the eye witnesses which finds ample corroboration from other circumstantial evidence discussed above.

24. The learned Counsel for the Appellants contends that the eye witnesses examined in this case being members of the same family and highly interested witnesses, their testimony should not be relied upon in the absence of any independent corroboration. I find no substance in this contention. There is no rule either of law or prudence which requires that the evidence of injured persons

with respect to the cause of their injuries should not be believed and acted upon simply because it has not been corroborated by some independent witnesses of the occurrence. As in the instant case, independent witnesses may not be present at all at the time of the occurrence. That would not mean that the prosecution case, however true, should be thrown out simply for the reason that the prosecution has not procured an independent eye witness. Again, it is pertinent to remember that though the injured person examined at the trial is hostile to the assailants and interested in the prosecution, it is most unlikely that he would deliberately spare the true assailants and substitute in their place the names of his other enemies out of malice or enmity. This is all the more unlikely in cases where the victim had full opportunity to identify his assailants. The desire to punish his assailants is so powerful in a human being that he would unhesitatingly name the real culprits without thinking of substituting them by others who may be inimical to him. After all a victim can have no better sympathy with his real assailants than his other enemies and this applies all the more in case of an offence involving the very life of the victim. A person may falsely implicate his enemy in place of the real culprit but this is likely only when he is not sure about the identity of his assailant, for example, where the offence is committed under the cover of darkness and the culprit manages to escape. It is also not improbable that while naming the assailants, the victim may add some innocent persons out of malice and enmity which factor the Courts must bear in mind while appreciating the evidence of such interested persons. I have kept in mind the aforesaid caution while appreciating the evidence in the instant case. Keeping in view the fact that none of the eye witnesses has cared to involve accused Malkiat Singh, who has since been acquitted, and the further fact that as many as eight weapons of offence were recovered which were all found to contain stains of blood, I have no reason to doubt if the prosecution has tried to falsely implicate any of the Appellants. There is thus no ground whatsoever made out to doubt the genuineness of the ocular evidence.

25. The other contention raised on behalf of the Appellants is that the First Information Report in this case was not recorded at the earliest available opportunity. It was argued that the Investigating Officer Prithi Chand, A.S.I., should have recorded the First Information Report immediately on his arrival on the spot at about 3 P.M. This argument ignores the fact that the first anxiety and duty of the police officer in the case of this type should be to save the lives of the victims. For that purpose his first effort should be to render medical aid to the victims which can be best done by shifting them to some hospital. Even at the hospital the first priority would be to render medical aid to the victim and it is only after such aid had been rendered and the victims had been declared fit to make their statements that question of recording their statements would arise. This is exactly what happened in the instant case. The Investigating Officer reached the spot at about 3 P.M. He shifted the injured persons to the Primary Health Centre, Haroli, by 3.30 P.M. All the injured persons were then examined and given first aid by the doctor. It was only thereafter that the Investigating

Officer asked for the opinion of the doctor if the injured persons were fit to make their statements. As soon as the doctor certified with respect to the fitness of Santokh Singh, P.W., the Investigating Officer recorded his statement which was done at 5.30 P.M. There was thus no delay in recording the First Information Report.

26. Another contention raised on behalf of the Appellants is that the prosecution has failed to prove any motive for the crime on the part of the Appellants. I find that on the facts of this case the discovery or non-discovery of the motive behind the crime is of no importance. Motive is of course a relevant factor of which evidence can be given at a trial. Proof of motive certainly lends additional support to the prosecution case. Failure on the part of the prosecution to discover motive would, however, not adversely reflect on the credibility of other evidence adduced to prove the crime if the same otherwise looks cogent and credible. This is all the more so in cases which depend upon ocular evidence like the instant case. Omission on the part of the prosecution to discover motive is, therefore, in my view of no consequences in the instant case which, as observed earlier, is proved beyond doubt by the ocular evidence and other circumstantial evidence discussed above.

27. Lastly it was urged that the sentence imposed upon the Appellants in respect of the offence u/s 307 of the Indian Penal Code is rather harsh and needs to be reduced. There appears some substance in this argument insofar as the sentence imposed for the offence u/s 307 of the Indian Penal Code is concerned.

28. The learned Sessions Judge applied the same yardstick while sentencing the various Appellants for this offence as he had imposed a uniform sentence of R.I. for 10 years and a fine of Rs. 500/- on each of the Appellants. While recording this sentence he neither took into consideration the fact that all the Appellants were first offenders nor their ages. One of the Appellants, namely, Ram Singh was yet in his teens while another Appellant Nirmal Singh was of 21 years of age. Yet another Appellant Sarvan Singh alias Sarbo was 62 years old. These matters should certainly have been taken into consideration in determining the quantum of sentence to be imposed. In my view the sentences imposed upon the Appellants do call for reduction and I would accordingly while maintaining the convictions of all the Appellants on all the counts would insofar as the sentence u/s 307 of the Indian Penal Code is concerned reduce the same from 10 years R.I. to 5 years R.I. in cases of Appellants Mohinder Singh, Darshan Singh, Bakhshish Singh, Bhagat Singh, Pritam Singh and Swaran Singh. With respect to the Appellants Nirmal Singh, Ram Singh and Sarvan Singh alias Sarbo, I would, keeping in view their ages, reduce their sentences to 3 years R.I. The sentence of fine imposed on these Appellants is, however, sustained. The sentences recorded for other offences are maintained. The sentences imposed for the various offences shall, as directed by the trial Court, run concurrently. Both these appeals stand disposed of accordingly.