

*Before Sanjay Vashisth, J.*

**TINKU @ GAGANDEEP VERMA—Appellant**

*versus*

**STATE OF HARYANA—Respondent**

**CRA No. 1949-SB of 2002**

December 12, 2022

***Indian Penal Code, 1860—S.148, 307, 307/149, 323,323/149, 324, 324/149—Criminal Procedure Code, 1973—S.161—Common Object when inferred—Accused group armed with weapons already present—Causing injuries to other group— Medico lego report suggestive of injuries caused by group of persons—Influence of prior common object; Improvement to statement recorded before Court—Duly Confronted—Question put in cross examination for clarification—Evidence attributing Knife blows by 1 accused only—others entitled to benefit.***

*Held*, that Submission of learned counsel for appellant-Vinod Pandit that injury described on lateral aspect of left side of chest, cannot be knife blow in left flank, also does not find any place to sustain here because about this confusion no question for clarification purpose was either put to injured Karampal or to Dr. Daya Nand (PW-12) to whom weapon was shown. Thus, the argument qua accused/appellant Vinod Pandit also fails.

(Para 28)

*Further held*, that No compensation has been awarded by the learned Trial Court, therefore, considering the fact that complainant/injured Karampal and Rakesh had suffered injuries in the occurrence, I deem it appropriate to award compensation in their favour. Accordingly, appellants Tinku @ Gagandeep Verma, Naresh Bura, Vinod Pandit and Anil Sahrawat are directed to deposit Rs. 10,000/- each as compensation amount with the Court of Area Magistrate and appellant Sanjay Jakhar @ Arun Kumar is directed to deposit a sum of Rs. 25,000/- in the shape of compensation, within a period of three months from today. Upon deposit of compensation amount, same shall be distributed amongst both the injured, i.e. Karampal and Rakesh in equal share by learned Area Magistrate after issuing notices to the injured persons, for withdrawing of compensation amount.

(Para 41)

Hemant Bassi, Vijayveer Singh, & Aashima Narula, Advocates,  
(in CRA-S-1949-SB-2002 & CRA-S-152-SB-2003).

Sudhir Sharma, Advocate, (in CRA-S-1955-SB-2002).

P.S. Chahar, Advocate, (in CRA-S-1960-SB-2002).

Jainainder Saini, Advocate, (in CRA-S-140-SB-2003).

A.S. Cheema, Advocate, (in CRA-S-153-SB-2003).

Amandeep Singh, Advocate, (in CRA-S-189-SB-2003).

Vikas Bhardwaj, Assistant Advocate General, Haryana.

### **SANJAY VASHISTH, J.**

(1) This judgment shall dispose of seven appeals, bearing Nos. CRA-S-1949-SB-2002, CRA-S-1955-SB-2002, CRA-S-1960-SB-2002, CRA-S-140-SB-2003, CRA-S-152-SB-2003, CRA-S-153-SB-2003 and CRA-S-189-SB-2003, which have been filed by Tinku @ Gagandeep Verma, Bhola @ Avinash, Naresh Bura, Vinod Pandit, Sanjay Jakhar @ Arun Kumar, Anil Sahrawat and Kala @ Jagdeep, respectively, against the judgment of conviction, dated 26.11.2002, and order of sentence, dated 29.11.2002, passed by learned Additional Sessions Judge, Hisar, in Sessions Case No. 65 of 1997. Accused/appellants were held guilty for commission of offences punishable under Sections 148, 307, 307/149, 323, 323/149, 324 and 324/149 IPC and each one of them were ordered to undergo sentence(s), as detailed in the following table:

<b>Name of Convict</b>	<b>Under Section</b>	<b>Sentence</b>	<b>Fine</b>	<b>In Default</b>
Tinku @ Gagandeep Verma	148 IPC	01 year RI		
	307/149 IPC	05 years RI	Rs. 1000/-	1 month RI
	324/149 IPC	1 year RI		
	323/149 IPC	3 months RI		
Bhola @ Avinash	148 IPC	01 year RI		
	307/149 IPC	05 years RI	Rs. 1000/-	1 month RI
	324 IPC	1 year RI		
	323/149 IPC	3 months RI		

Naresh Bura	148 IPC	01 year RI		
	307/149 IPC	05 years RI	Rs. 1000/-	1 month RI
	324/149 IPC	1 year RI		
	323 IPC	3 months RI		
Vinod Pandit	148 IPC	01 year RI		
	307/149 IPC	05 years RI	Rs. 1000/-	1 month RI
	324/149 IPC	1 year RI		
	323/149 IPC	3 months RI		
Sanjay Jakhar @ Arun Kumar	148 IPC	01 year RI		
	307 IPC	05 years RI	Rs. 1000/-	1 month RI
	324 IPC	1 year RI		
	323/149 IPC	3 months RI		
Anil Sahrawat	148 IPC	01 year RI		
	307/149 IPC	05 years RI	Rs. 1000/-	1 month RI
	324/149 IPC	1 year RI		
	323/149 IPC	3 months RI		
Kala @ Jagdeep	148 IPC	01 year RI		
	307/149 IPC	05 years RI	Rs. 1000/-	1 month RI
	324 IPC	1 year RI		
	323/149 IPC	3 months RI		

(2) Proceedings of trial in the present case were conducted in FIR No. 311, dated 08.11.1995, under Sections 148, 149, 323, 324 and 307 IPC, registered at Police Station Civil Lines, Hisar. Since the impugned judgment of conviction and order of sentence is one and common, arising from one set of allegations, the facts are borrowed from Criminal Appeal No. CRA-S-1949-SB-2002, titled as “Tinku @ Gagandeep Verma v. State of Haryana”.

(3) FIR, dated 08.11.1995 (Ex. PA/1) in the present case was

registered on the statement of Karampal (injured/complainant), with the allegations that he was a student of 10+2, Ramjas School, Sonapat, and on 06.11.1995, he had come to Hisar to meet his brother – Jaibir, who was studying in Vishvas School, Hisar. In the noon, at about 12:00 p.m., Karampal alongwith his friends Rakesh @ Bablu, Sandeep Chahal, Satyawan and Pardeep Sindhu, had gone to Gali No. 3, Jawahar Nagar, Hisar. There they found that all the appellants were already standing in front of a barber shop in Gali No. 3, Jawahar Nagar, Hisar. By going near to the accused party, they all asked Sanjay Jakhar @ Arun Kumar and others that sisters and daughters of all to be treated equal and on other day Rajesh Kundu should not have spoken bad words to the sister of Rakesh @ Bablu. Just on saying this, Sanjay Jakhar took out a knife from his pocket and did several attacks with knife upon Rakesh. Anil Sahrawat also attacked him with a rod, causing injuries on the stomach, both the forearms and nose of Rakesh. Rakesh fell down on the spot. When complainant – Karampal, Sandeep Chahal, Satyawan and Pardeep Sindhu tried to rescue Rakesh, Rajesh Kundu gave a kirpan blow to the complainant and Pandit (Vinod Pandit), who was armed with knife, and Naresh Bura, armed with hockey, caused injuries on all sides of the head as also on front and back side of left arm/pit of complainant – Karampal, with their respective weapons. Thereafter, Sanjay Jakhar etc. ran away from the spot with their respective weapons. Other associates of the accused also slapped and gave fist blows to the complainant and Rakesh.

(4) After registration of the case, investigation started. Accused Naresh Bura was arrested on 11.11.1995 and based upon his disclosure statement, a hockey was recovered.

Accused Rajesh Kundu was arrested on 12.11.1995 and based upon his disclosure statement, a kirpan was recovered.

Accused Anil Sehrawat was arrested on 25.11.1995 and based upon his disclosure statement, an iron rod was recovered.

Accused Sanjay Jakhar was arrested on 26.11.1995 and based upon his disclosure statement, a knife was recovered.

Accused Tinku was arrested on 06.12.1995 and based upon his disclosure statement, a knife was recovered.

Accused Vinod Pandit was arrested on 08.04.1996 and based upon his disclosure statement, a knife was recovered.

(5) All the recovered weapons were taken into police

possession by preparing separate recovery memos and site plans, for each of the recovered weapon.

(6) During the course of investigation, accused Rajesh Kundu was found to be juvenile at the time of commission of offence and a separate challan was filed against him to face trial in the Juvenile Court.

(7) Accused Bhola @ Avinash and Kala @ Jagdeep were found innocent during course of investigation and were, thus, initially not challaned.

(8) This way, final report under Section 173 Cr.P.C., was filed against Tinku @ Gagandeep Verma, Anil Sahrawat, Naresh Bura, Vinod Pandit and Sanjay Jakhar.

(9) At the time of start of prosecution evidence, when injured Rakesh appeared as PW1, prosecution moved an application under Section 319 Cr.P.C., for summoning of co-accused Bhola @ Avinash and Kala @ Jagdeep, to face trial alongwith other five co-accused. The said application was allowed vide order dated 01.04.1998, and thereupon fresh charges were framed against all the seven accused, who are appellants before this Court.

(10) Prosecution examined total 16 witnesses, as detailed hereunder:

PW-1	Injured Rakesh
PW-1/A	SI Bhoop Singh
PW-2	HC Hari Ram
PW-3	Constable Davinder Singh
PW-4	Dr. Pawan Jain, SMO (Retired)
PW-5	Dr. Brij Bhushan Banga, Surgeon, CMC Hospital, Hisar
PW-6	Dr. R.J. Bishnoi, Medical Officer, CHC, Mangali
PW-7	Dr. Ajay Gupta, Senior Registrar, Department of Surgery, Safdarjang Hospital, Delhi
PW-8	Constable Shamsheer Singh
PW-9	Complainant/injured Karampal
PW-10	Shamsheer Singh, Draftsman, Court Complex, Hansi
PW-11	Avinashi Lal Malhotra, Retired Principal, Viswas

	Senior Secondary School, Hisar
PW-12	Dr. Daya Nand, Medical Officer, General Hospital, Hisar
PW-13	Constable Balwan Singh
PW-14	ASI Ishwar Singh
PW-15	Head Constable Rajmal

(11) In defence, one witness, namely, Suraj Bhan, was examined as DW-1, and documents Exs. DD, DE and DF were tendered.

(12) In the statements recorded under Section 313 Cr.P.C., all the accused pleaded innocence and false implication.

(13) After analyzing evidence available on record, learned Trial Court, vide impugned judgment, dated 26.11.2002, held all the seven accused/appellants guilty and vide separate order of sentence, dated 29.11.2002, ordered them to undergo imprisonment, as already noticed in the opening part of this judgment.

(14) Hence, these seven appeals before this Court since 2002/2003.

(15) While referring to the statements of prosecution witnesses, learned counsel for the appellants submitted that as per initial version of the prosecution, attribution of causing several knife blows was against accused Sanjay Jakhar only and to none else. As per medical evidence, Rakesh is the victim for the injury which has been declared dangerous to life. Thus, intention to cause murder, attributed to all other accused, is not sustainable. Therefore, conviction of other alleged accused, under Section 307/149 IPC, is also not made out.

(16) It is also argued that while appearing in witness-box, injured Rakesh has improved his version, wherein during the course of his deposition before the Court, he attributed causing of knife blows against accused Kala @ Jagdeep and Bhola @ Avinash also and said part of attribution was got confronted with his earlier statement (Ex. DA), recorded under Section 161 Cr.P.C., wherein it was not recorded that these two accused (Kala @ Jagdeep and Bhola @ Avinash) had caused injuries to this witness.

(17) While assailing deposition of injured Rakesh, learned counsel for the appellants further argued that since the accused persons were alleged to be present already on the spot before reaching of

complainant/victim party, allegation of sharing of common object is not found correct and, therefore, conviction under Sections 307/149 IPC and 324/149 IPC is not made out.

(18) Learned counsel representing appellant - Vinod Pandit also made submissions that he has been attributed injury in the left side of flank of Karampal (complainant/injured), but as per medical evidence there is no such injury. Therefore, participation of Vinod Pandit is also highly doubtful.

(19) Learned counsel representing Bhola @ Avinash and Kala @ Jagdeep, argued that learned Trial Court has failed to examine each and every aspect of the material available on record. As per police investigation, both of them were not found to be present at the place of occurrence and were, thus, declared as innocent. Later on, both of them were summoned under Section 319 Cr.P.C., for the purpose of joining of trial proceedings alongwith already challaned accused. Learned counsel further submitted that their involvement is to be seen with the standard of reliability of version of the complainant, i.e. at the time of registration of FIR and thereafter deposition before the Court.

Learned counsel also referred to the initial version of the prosecution in the shape of FIR as statement of Karampal (complainant/injured), wherein he only mentioned about presence of both of them on the spot, but there is nothing mentioned about holding of any weapon or any kind of role played by them in the said incident.

(20) Referring to the statement of PW-1 Rakesh (injured), it is pointed out that after stabbing by accused Sanjay Jakhar, there is attribution of infliction of another stab with knife by accused Kala @ Jagdeep and yet another stab by knife by Bhola @ Avinash on left and right arms respectively of injured Rakesh, but in the very first part of the cross-examination, said attribution was got confronted with his (Rakesh) statement (Ex. DA) recorded under Section 161 Cr.P.C.

(21) Learned counsel for the appellants next argued that injured/complainant Karampal also made improvements in his statement recorded before the Court by making attribution of causing injuries by Bhola @ Avinash and Kala @ Jagdeep with their respective knives on the person of Rakesh. However, said part was also got confronted with his earlier statement Ex. PA/1 (FIR version), wherein said role was not found mentioned. This way, learned counsel argues that nothing adverse can be assumed against Bhola @ Avinash and Kala @ Jagdeep, which is based upon improvement and concocted

version of complainant/injured themselves, whereas there is specific mention about causing several knife blows by co-accused Sanjay Jakhar with his knife on the person of Rakesh. Thus, initially leveled allegation if is found to be true, nothing is left as admissible evidence against accused Bhola @ Avinash and Kala @ Jagdeep.

(22) On the other hand, Mr. Vikas Bhardwaj, Assistant Advocate General, Haryana, while opposing contentions of learned counsel for the appellants argues that names of all the accused appeared in the FIR itself, which was recorded without loss of time. FIR was got lodged at the instance of complainant/injured Karampal, who himself suffered injuries in the incident. Thus, presence of all the accused at the spot is well proved. Moreover, initial version of the FIR has been fully corroborated with the deposition of another injured – Rakesh (PW-1), who is victim of the injury which was declared as dangerous to life. Thus, deposition of injured witness cannot be doubted.

(23) Learned State counsel also submits that in support of stand of the prosecution, recoveries of weapons have also been effected from all the accused, except two, i.e. Bhola @ Avinash and Kala @ Jagdeep, who were never arrested and were found innocent in police investigation. He also submits that the evidence led by prosecution is not challengeable and none of the accused deserves acquittal.

(24) After hearing all the respective counsel from both the sides and perusing record carefully, I find that there is no substance in the submission addressed by learned counsel for the appellants that issue of common object is missing and Section 149 IPC would not be applicable. From a bare reading of FIR, it becomes clear that three of the accused were armed with knives, one with hockey and one with iron rod. No explanation is available on record or even nothing addressed to convince the Court that for what reason accused were already standing on the place of occurrence in one company, that too armed with weapons. Undoubtedly, it was for causing injuries to opposite group boys, i.e. complainant/victim party, who were expected to reach there after sometime. Thus, from the said circumstance only, it can be safely inferred that all the accused had prior common object in mind.

(25) Moreover, Dr. Daya Nand, Medical Officer, General Hospital, Hisar, appeared as PW-12, who had examined injured Rakesh on 08.11.1995, at 12:55 p.m. and noticed following injuries on his person:



“1. There was red contusion on the nose. Clotted blood was present in the nostrils.

a. Incised wound over antero lateral aspect of left upper arm just above elbow joint 3 cms x 1 x .2 cm. Fresh bleeding was present.

b. Incised wound over middle of back of left fore-arm size 2.5 cms. x 1 x 1 cm. Fresh bleeding was present.

c. Incised wound over right lateral aspect of right upper arm size 2.2. cm. x 1 cm. x 0.8 cm. Fresh bleeding was present.

d. Incised wound on right fore-arm just above wrist joint of size 2 x 0.9 x 0.5 cm.

e. There was stab wound with sharp margins lying over abdomen 8 cms above umbilicus and 4 cms. lateral to mid line, size 2.5 x 1 cm. Depth was not probed. Fresh bleeding was present.

Advised various x-rays, general ortho and E.N.T. Surgeon opinion. Injuries were kept under observation and caused within 6 hours duration. All the injuries except injury No. 1 were caused by a sharp weapon and injury No. 1 was caused by a blunt weapon. ....”

(26) Same day, Karampal (complainant/injured) was also medico-legally examined at 01:25 p.m. by Dr. Daya Nand (PW-12) and following injuries were noticed on his person:-

“On the same day, at 1.25 P.M. I also medico-legally examined Karam Pal son of Tek Ram, 22 years, male, of Friends Colony, Hisar and found the following injuries:-

1. There was a lacerated wound over left side of scalp lying just above occipital protuberance and 3 cm. lateral to mid line of size 3 cms. x 1 cm. x .8 cm. Fresh bleeding was present.

2. Red contusion over forehead of size 5 cms. x 4 cm.

3. There was a sharp edged wound over lateral aspect of left side of chest of size 1 cm. x .5 cm. x .3 cm. Fresh bleeding was present.

I advised X-ray skull and chest. All the injuries were kept

under observation, caused within a duration of six hours. Injuries No. 1 and 2 were caused by blunt weapon and the third by sharp. ....”

(27) Attribution of aforementioned injuries also probabalize the prosecution version, i.e. causing of injuries by group of persons. Thus, there is no escape for accused to come out of the allegations under Section 149 IPC, once all of them are said to be armed and recovery of weapons have been effected from them.

(28) As far as argument addressed in regard to accused/appellant Vinod Pandit that injury attributed to him is not found in the medico-legal examination, also does not find here any place to sustain because as per FIR (Ex. PA/1), Rajesh Kundu, armed with kirpan, Vinod Pandit, armed with knife in his hand, and Naresh Bura, armed with hockey in his hand, have been attributed infliction of injuries to Karampal (complainant/injured). When Karampal (complainant/injured) appeared as PW-9 in the witness box, in his deposition he stated that *“Vinod Pandit gave a knife blow in my left flank. ....”*. In the medical examination, Injury No. 3, i.e. *“a sharp edged wound over lateral aspect of left side of chest of size 1 cm. x .5 cm. x .3 cm. Fresh bleeding was present.”*, is mentioned. Attribution of giving of knife blow on left side of flank probabalize infliction of Injury No. 3. Submission of learned counsel for appellant-Vinod Pandit that injury described on lateral aspect of left side of chest, cannot be knife blow in left flank, also does not find any place to sustain here because about this confusion no question for clarification purpose was either put to injured Karampal or to Dr. Daya Nand (PW-12) to whom weapon was shown. Thus, the argument qua accused/appellant Vinod Pandit also fails.

(29) There is no other submission on behalf of appellants – Tinku @ Gagandeep Verma, Naresh Bura, Vinod Pandit, Sanjay Jakhar @ Arun Kumar and Anil Sahrawat.

(30) In regard to the submissions made by learned counsel appearing for accused/appellants Bhola @ Avinash and Kala @ Jagdeep, I have carefully gone through the FIR (Ex. PA/1) and find that the submissions made are correct. Except of mentioning names of both said accused/appellants by complainant Karampal, nothing else is mentioned about holding of any weapon or causing injury or any other attribution i.e. raising of lalkara etc. When the injured witnesses appeared before the Court, of course PW-1 Rakesh and PW-9 Karampal deposed that Bhola alias Avinash and Kala @ Jagdeep

inflicted knives blows on the person of Rakesh. Relevant part of examination-in-chief, deposed by injured Rakesh (PW-1) says as under:-

“.....A few days prior to the occurrence in question the accused Rajesh Kundu had misbehaved with my sister and when the above named all the accused arrived in Gali No. 3 on 8.11.1995 where we were standing, my friend Karam Pal commented that sisters and mothers are common to all and no one should misbehaved with them. Upon his saying so, accused Sanjay Jakhar retaliated by stabbing me with a knife on my stomach to be followed by infliction of another stab with knife by accused Kala and yet another stab with knife by accused Bhola on my left and right arms respectively.

.....”

(31) In the cross-examination, when the said witness was got confronted, he stated as under:-

“XXXX.....On behalf of all the accused.

I had stated before the police in the Safdarjang hospital at Delhi that Kala and Bhola had inflicted knife blows on my right and left arms (Confronted with his statement Ex. DA recorded u/s 161 Cr.P.C. wherein it is not recorded that these two accused namely Kala and Bhola had caused injuries to this witness). It is incorrect to suggest that neither the above named two accused nor any other accused had inflicted any injury whatsoever on my person on the date and time as narrated by me above. Voluntarily added the police had deliberately omitted while recording my statement u/s 161 Cr.P.C. the factum of Kala and Bhola having inflicted knife injuries on my person. It is incorrect to say that I did not mention the names of Kala alias Jagdeep and Bhola alias Avinash as assailants. Both of them were armed with knives. It is incorrect to say that I did not state so before the police. It is also incorrect that these two accused did not inflict injuries with knives. Attention of the witness is drawn to his statement Exhibit DA recorded under section 161 of Code of Criminal Procedure wherein it is not recorded.”

(32) Similarly, complainant/injured Karampal (PW-9) was also got confronted with his earlier statement during his cross-examination

and relevant part thereof reads as under:-

“XXXXXXXXXX...On behalf of the accused.

I had mentioned the names of Kala @ Jagdeep and Bhola @ Avinash accused in my statement Ex. P.A. I had also stated before the police that Kala and Bhola accused also inflicted injuries with knives on the person of Rakesh (PW-1). Attention of the witness is drawn to his statement Ex. P.A. wherein it is not recorded that they inflicted knives blows.”

(33) Apart the aforementioned evidence, there is nothing with the prosecution to substantiate its improved allegation of causing injuries with knife by accused Bhola @ Avinash and Kala @ Jagdeep, who were initially found innocent by the police and were not challaned. In this view of the situation, with weak and improved evidence led by prosecution, involvement of these two accused, i.e. Bhola @ Avinash and Kala @ Jagdeep, is held to be highly doubtful in the absence of any strong piece of evidence. Resultantly, appellants Bhola @ Avinash and Kala @ Jagdeep deserve acquittal.

(34) As a result of above discussion, appeals filed by Bhola @ Avinash and Kala @ Jagdeep, i.e. CRA-S-1955-SB-2002 and CRA-S-189-SB-2003, respectively, are allowed and they are acquitted in the present case from all the charges levelled against them.

(35) However, remaining five appeals, i.e. CRA-S-1949-SB-2002, CRA-S-1960-SB-2002, CRA-S-140-SB-2003, CRA-S-152-SB-2003, and CRA-S-153-SB-2003, filed by Tinku @ Gagandeep Verma, Naresh Bura, Vinod Pandit, Sanjay Jakhar @ Arun Kumar and Anil Sahrawat, respectively, are dismissed qua conviction part.

(36) For the purpose of re-assessing quantum of sentence in appeal, which was awarded by the learned Trial Court, vide order dated 29.11.2002, respective learned counsel have been given opportunity to address their submissions.

(37) Learned counsel for the appellants submit that as per custody certificates, dated 08.11.2022, placed on record by learned State counsel, appellants Tinku @ Gagandeep Verma, Naresh Bura, Vinod Pandit, Sanjay Jakhar @ Arun Kumar and Anil Sahrawat have undergone incarceration as under:

Sr. No.	Name of convict/ appellant	Total sentence undergone
1.	Tinku @ Gagandeep Verma	02 months and 22 days
2.	Naresh Bura	02 months and 28 days
3.	Vinod Pandit	01 year, 10 months and 14 days
4.	Sanjay Jakhar @ Arun Kumar	01 year and 16 days
5.	Anil Sahrawat	03 months and 08 days

(38) It is also stated by learned counsel that aforementioned appellants are on bail in the present case. At the time of incident, i.e. in November, 1995, all of them were below the age of 18 years and now they all are well settled in their lives with their families. Sending them back to jail would not only adversely affect future prospects of the appellants but their families as well. Therefore, it is urged that lenient view may be taken.

(39) Learned counsel also pointed out that appellant – Naresh Bura was declared juvenile vide order dated 27.01.2016, passed by this Court in CRM-54042-2010 in CRA-S-1960-SB-2002; appellant – Sanjay Jakhar @ Arun Kumar was declared juvenile vide order dated 05.12.2016, passed by this Court in CRM-3515-2016 in CRA-S-152-SB- 2003; and appellant – Anil Sehrawat was declared juvenile vide order dated 29.03.2017, passed by this Court in CRM-58787-2010 in CRA-S- 153-SB-2003. It is, thus, argued that nothing would be achieved by sending them inside jail again after a period of 18/19 years of releasing them on bail, especially in the circumstances when offence was committed by the appellants when they had not even attained the age of majority.

(40) Having considered the aforementioned submissions, I am of the view that at the time of occurrence appellants Tinku @ Gagandeep Verma, Naresh Bura, Vinod Pandit, Sanjay Jakhar @ Arun Kumar and Anil Sahrawat were of tender age and as per custody certificates dated 08.11.2022, they have also undergone some part of the sentence. In these circumstances, appellants Tinku @ Gagandeep Verma, Naresh Bura, Vinod Pandit, Sanjay Jakhar @ Arun Kumar and Anil Sahrawat are ordered to be sentenced for the period already undergone by each one of them in jail. Accordingly, impugned order of sentence, dated 29.11.2002, passed by learned Trial Court, is modified to that extent.

(41) No compensation has been awarded by the learned Trial Court, therefore, considering the fact that complainant/injured Karampal and Rakesh had suffered injuries in the occurrence, I deem it appropriate to award compensation in their favour. Accordingly, appellants Tinku @ Gagandeep Verma, Naresh Bura, Vinod Pandit and Anil Sahrawat are directed to deposit Rs. 10,000/- each as compensation amount with the Court of Area Magistrate and appellant Sanjay Jakhar @ Arun Kumar is directed to deposit a sum of Rs. 25,000/- in the shape of compensation, within a period of three months from today. Upon deposit of compensation amount, same shall be distributed amongst both the injured, i.e. Karampal and Rakesh in equal share by learned Area Magistrate after issuing notices to the injured persons, for withdrawing of compensation amount. However, it is made clear that in the event of default in deposit of aforementioned amount of compensation, order of sentence dated 29.11.2002, passed by learned Trial Court, shall enure.

(42) In the net result, appeals filed by Bholu @ Avinash and Kala @ Jagdeep, i.e. **CRA-S-1955-SB-2002** and **CRA-S-189-SB-2003** are allowed while remaining five appeals, i.e. **CRA-S-1949-SB-2002**, **CRA-S-1960-SB-2002**, **CRA-S-140-SB-2003**, **CRA-S-152-SB-2003**, **and CRA-S-153-SB-2003**, filed by Tinku @ Gagandeep Verma, Naresh Bura, Vinod Pandit, Sanjay Jakhar @ Arun Kumar and Anil Sahrawat, respectively, are dismissed qua their conviction and their sentence is modified in the manner stated in preceding paragraphs. Pending criminal miscellaneous application(s), if any, are also disposed of accordingly.

(43) Copy of this judgment be forwarded to the learned Trial Court/Area Magistrate for information and necessary action.

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*Divay Sarup*