



CRA-S-1514-SB-2005, CRA-S-1866-SB-2005 & CRA-S-1885-SB-2005(O&M)

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

118 CRA-S-1514-SB-2005 (O&M)
Date of decision : 10.09.2026

Vijay Kumar & Ors.
..... Appellants

VERSUS

State of Haryana
..... Respondent

118-II CRA-S-1866-SB-2005 (O&M)

Raju
..... Appellant

VERSUS

State of Haryana
..... Respondent

118-III CRA-S-1885-SB-2005 (O&M)

Baljit
..... Appellant

VERSUS

State of Haryana
..... Respondent

CORAM: HON’BLE MR. JUSTICE SURYA PARTAP SINGH

Present : Mr. Rahul Makkar, Advocate
for the appellant in CRA-S-1514-SB-2005.

Mr. Rohan Sachdev and Mr. Sameer Sachdev, Advocates
for the appellant in CRA-S-1866-SB-2005.

Mr. Gurdip Grewal and Mr. Rahul Rathore, Advocates
for the appellant in CRA-S-1885-SB-2005.

Mr. Ramender Singh Chauhan, AAG Haryana.



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SURYA PARTAP SINGH, J.

All these appeals have been filed by the appellants against the judgment of conviction dated 13.08.2005 and order of sentence dated 16.08.2005, passed by the Court of learned Additional Sessions Judge Sonepat, hereinafter being referred to as ‘trial Court’ only.

2. Briefly stating the facts emerging from record are that one FIR, i.e. the FIR No.91 dated 09.06.2002, was registered at the instance of ‘SI Suresh Kumar’, for the commission of offence punishable under Sections 399, 402 of Indian Penal Code and 25 of Arms Act, Police Station Kharkhoda. In the wake of abovementioned FIR, the investigation was taken up by the police, and as an outcome of abovesaid investigation, the appellants were sent to face trial before the learned trial Court.

3. The appellants and the above-named co-accused participated in the abovementioned trial. By virtue of judgment dated 13.08.2005, hereinafter being referred to as ‘impugned judgment’, the abovesaid trial culminated into conviction of the appellants. Thus, vide order dated 16.08.2005, hereinafter being referred to as ‘impugned order’, on the point of quantum of sentence, following sentences were awarded to the appellants:-

Offence under Sections	Sentence
399 of IPC	Rigorous imprisonment for a period of four years each and to pay a fine of Rs.1000/- each and in default thereof to further undergo rigorous imprisonment for a period of one month each.

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402 of IPC	Rigorous imprisonment for a period of four years each and to pay a fine of Rs.1000/- each and in default thereof to further undergo rigorous imprisonment for a period of one month each.
25 of Indian Arms Act	Rigorous imprisonment for a period of six months each. (except appellants ‘Sanjay’ and ‘Sandeep @Shera’)

All the sentences were ordered to run concurrently.

4. Aggrieved of the abovementioned judgment of conviction and order of sentence, present appeals have been preferred.
5. In nut-shell, the facts emerging from record are that the FIR of this case came into being at the instance of ‘SI Suresh Kumar’, who had reported that on 09.06.2002, when he was leading a team of police officials, deputed for patrolling duty, he received a tip-off from a reliable source that six young boys were sitting in a house situated on the southern side of an abandoned dairy on the Kharkhoda-Sonepat road, and that they were planning to commit robbery. It was also informed that they could be caught red-handed.
6. According to above-named police officer, in response to abovementioned information, he went to the spot and overheard the conversation of the persons present in the room. After overhearing the strategy of the abovementioned persons, the police party entered the room and apprehended five boys, namely ‘Baljit @Kalu’, ‘Raju’, ‘Vijay’, ‘Sanjay’, and ‘Sandeep’, whereas one person managed to escape by taking advantage of darkness. As per above-named police officer, when the search of the persons was conducted, it was found that ‘Baljit @Kalu’ was having one loaded countrymade with a live cartridge, ‘Raju’ was armed with pistol



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with a live cartridge, 'Vijay' was carrying knife, and 'Sanjay' and 'Sandeep' were armed with iron rods.

6. It was a case of the prosecution that pursuant to abovementioned report, formal FIR of this case was lodged and the investigation taken up. As per prosecution, during the course of further investigation, the Investigating Officer inspected the spot, prepared rough site plan of the place of occurrence, recorded the statement of witnesses under Section 161 CrPC, and completed other usual formalities of investigation. Thereafter, the final report under Section 173 of CrPC was filed.

7. To discharge its burden of proving the charges against the appellants, the prosecution in the instant case had relied upon oral and documentary evidence, both. The documents proved and marked with exhibits, by the prosecution, were:-

- Ex.PA - The inspection report of countrymade pistol
- Ex.PB - Sanction order dated 02.09.2002 for prosecuting 'Raju' under Arms Act
- Ex.PC - Sanction order dated 02.09.2002 for prosecuting 'Baljit' under Arms Act
- Ex.PD - Seizure memo of pistol and cartridges, recovered from 'Baljit'
- Ex.PD/1 - Sketch of abovementioned pistol
- Ex.PE - Seizure memo of pistol and cartridges, recovered from 'Raju'
- Ex.PE/1 - Sketch of abovementioned pistol
- Ex.PF - Seizure memo of knife, recovered from 'Vijay'
- Ex.PF/1 - Sketch of knife, recovered from Vijay
- Ex.PG - Seizure memo of iron rod from 'Sanjay'



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- Ex.PG/1 - Sketch of iron rod, recovered from Sanjay
- Ex.PH - Seizure memo of iron rod, recovered from 'Sandeep'
- Ex.PH/1 - Sketch of abovementioned iron rod
- Ex.PJ - Site plan of the place of occurrence
- Ex.PK - The information memo sent to the police station (ruqqa)
- Ex.PK/2 - Endorsement recorded on information memo
- Ex.PK/1 - Copy of First Information Report
- Ex.PL - Rough site plan of the place of occurrence

8. To provide support and corroboration to the above-mentioned documentary evidence, as many as eight witnesses were examined by the prosecution. They were:-

- PW-1 - Balwant Singh, Armourer
- PW-2 - Ct. Vijay Kumar
- PW-3 - Chhabil Dass, Ahmad to District Magistrate Sonapat
- PW-4 - ASI Ram Kumar
- PW-5 - Inderpal, Draftsman
- PW-6 - ASI Satbir Singh
- PW-7 - SI Ram Kishan
- PW-8 - Inspector Suresh Kumar

9. Once the prosecution evidence was recorded, the learned trial Court completed all the essential formalities, enshrined under Section 313 CrPC. Thereafter, opportunity to lead defence evidence was afforded to the appellants. In their defence evidence, the appellants had not examined any witness.



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10. When the evidence of both the parties was complete, the learned trial Court gave opportunity to the learned public prosecutor and the learned counsel for the appellants to address arguments. Thereafter, a judgment of conviction, against the appellants, was pronounced and, accordingly, the appellants were sentenced to undergo imprisonment, as detailed hereinabove.

11. Heard.

12. It has been contended on behalf of appellants that the impugned judgment of conviction and order of sentence passed by the learned trial Court are perverse and unsustainable. According to learned counsel for the appellants, merely on the basis of assumptions and presumption, the unreliable and self-contradictory evidence adduced by the prosecution had been believed by the learned trial Court. According to learned counsel for the appellants, the learned trial Court had failed to apply its judicial mind, and that, merely, on the basis of conjectures and surmises findings of conviction of appellants under Sections 399, 402 of IPC and Section 25 of Arms Act were recorded.

13. It has been further contended by learned counsel for the appellants that the learned trial Court ignored this cardinal principle of criminal jurisprudence that prosecution had to prove its case beyond the shadow of all reasonable doubts. According to learned counsel for the appellants, the evidence adduced by the prosecution was grossly inadequate to draw an inference that all the essential ingredients, meant for the



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commission of offence, for which the appellants were convicted had been established. In view of above, the learned counsel for the appellants has contended that the case against the appellants was not proved by the prosecution, but erroneously the learned trial Court returned the finding of conviction.

14. However, during the course of arguments, the learned counsel for the appellants have contended that in the instant appeals, the appellants are not inclined to challenge the finding of conviction recorded by the learned trial Court. The learned counsel for the appellants has categorically contended that at this stage, by virtue of present appeals, the appellants are challenging the order on the point of quantum of sentence only.

15. It has been further contended by learned counsel for the appellants that the incident had taken place way back in the year 2002. According to learned counsel for the appellants, the appellants are facing the agony of litigation for the last more than 24 years and have, in fact, already suffered more punishment than they deserved.

16. In addition to above, the learned counsel for the appellants has also argued that in the present case, the appellant, namely 'Vijay Kumar @Bijender', has already undergone imprisonment for a period of one year, one month & twelve days, appellant 'Sanjay Kumar' for ten months & twenty five days, appellant 'Sandeep @Shera' for ten months & nineteen days, appellant 'Raju' for eight months & twelve days, and appellant 'Baljit @Kalu' for two years, six months & nineteen days. According to learned



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counsel for the appellants, in view of above-discussed factors, and the fact that minimum sentence has not been prescribed for the offence, for which the appellants have been convicted, the sentence already undergone by the appellants may be treated to be sufficient.

17. *Per contra*, the learned State Counsel has argued that the appellants have been found guilty for the commission of offence punishable under Sections 399, 402 of IPC and Section 25 of Arms Act. According to learned State Counsel, the sentence awarded to the appellants, i.e. imprisonment for a period of four years, is already on lower side, and that the appellants are not entitled to a sentence of less than four years. As per learned State Counsel, the instant appeals have no merits and deserve dismissal.

18. The record has been perused carefully.

19. Once it is categorical stand of the appellants that they are not challenging the judgment of conviction, passed by the learned trial Court, it is hereby held that there is no scope for interference or indulgence in the findings recorded by the learned trial Court, with regard to conviction of appellants, for the offence Sections 399, 402 of IPC and Section 25 of Arms Act. Accordingly, the abovementioned finding is hereby affirmed and qua the judgment of conviction instant appeals are hereby dismissed.

20. As far as the order on quantum of sentence is concerned, in view of the fact that the appellant, namely 'Vijay Kumar @Bijender', has already undergone imprisonment for a period of one year, one month & twelve days, appellant 'Sanjay Kumar' for ten months & twenty five days,



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appellant 'Sandeep @Shera' for ten months & nineteen days, appellant 'Raju' for eight months & twelve days, and appellant 'Baljit @Kalu' for two years, six months & nineteen days, against the awarded sentence of four years, it is hereby held that the appellants are entitled to a lenient view.

21. In the light of above observations, if the factual matrix of present case is analyzed, it transpires that following are the points which are required to be taken into consideration: -

- (a) that the incident in question had taken place about 24 years ago;
- (b) that the appellants are facing the agony of protracted trial for the last 24 years;
- (c) that against the awarded sentence of four years, the appellant, namely 'Vijay Kumar @Bijender', has already undergone imprisonment for a period of one year, one month & twelve days, appellant 'Sanjay Kumar' for ten months & twenty five days, appellant 'Sandeep @Shera' for ten months & nineteen days, appellant 'Raju' for eight months & twelve days, and appellant 'Baljit @Kalu' for two years, six months & nineteen days; and
- (d) that in the last more than 22 years, any of the appellants has not been prosecuted for any offence, whatsoever.

22. In view of abovementioned observations, the sentence awarded to the appellants is hereby held to be harsh and, as a consequence thereof, it is hereby observed that with regard to quantum of sentence, there is need for interference and indulgence in the impugned order on the point of quantum



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of sentence, by exercising the appellate jurisdiction vested in this Court. Thus, in my opinion, by exercising the abovementioned jurisdiction, the sentence awarded to the appellants needs to be rationalized and reduced.

23. As a cumulative effect of abovementioned observations, it is hereby held that in the present case, the appellants are entitled to a lenient view, and that the sentence already undergone in the present case, is adequate to meet the ends of justice.

24. As a sequel to the aforesaid discussions, the present appeals are hereby *partly allowed*. The judgment of conviction is upheld; but order on the point of quantum of sentence is modified, and the sentence awarded to the appellants is reduced to the period already undergone by them.

25. Pending miscellaneous application(s), if any, stand(s) disposed of, accordingly.

26. A photocopy of this order be placed on the files of connected cases.

(SURYA PARTAP SINGH)
JUDGE

10.09.2026
Gaurav Thakur

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No