

**CRA No.2349-SB of 2003
Date of Decision : 25.02.2015**

Karan Bahadur**..... Appellant**

Vs.

State of Punjab**..... Respondent****CORAM : HON'BLE MR.JUSTICE AJAY TEWARI**

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the digest?**

Present : Ms. Harpreet Kaur Dhillon, Advcoate
for the appellant.

Mr.A.P.S.Gill, AAG, Punjab.

AJAY TEWARI, J.(ORAL)

This is an appeal filed against the judgment passed by the Addl. Sessions Judge, Ludhiana convicting the appellant under Section 304(I) IPC and sentencing him to undergo rigorous imprisonment of 10 years.

Custody certificate by way of an affidavit of Surinder Pal Khanna, PPS, Superintendent, Central Jail, Ludhiana on behalf of respondent has been filed in the Court today and the same is taken on record.

As per allegation, on the fateful day, the deceased (Mann Bahadur) was going with the complainant-Dhan Bahadur to visit his brother-in-law at about 11:00 am in the morning, when the appellant who was also their friend met them and invited them for drinks. The deceased and the appellant sat in the ahata and apparently got drunk while Dhan Bahadur did not imbibe. After the drinking bout was over, initially the

appellant made the payment and then asked the deceased to give his share of the expenses. On the deceased having refused, a drunken argument started between them, which involved abusing and shoving. During the course of this, suddenly the deceased in a fit of anger, picked up a slab of stone and gave three blows to the deceased, two on the back of his head and one near the eye. As per the prosecution, thereafter, the deceased threatened Dhan Bahadur who ran away and the appellant also escaped. The deceased died 16 hours later in the hospital. The actual incident was proved by the testimony of PW6-Dhan Bahadur and PW8-Puneet Sharma.

Learned counsel for the appellant has argued that firstly there are such material discrepancies in the testimonies of two eye-witnesses as would go to the root of the prosecution case, but apart therefrom, the fact is that even if the allegations are taken to be true, the occurrence took place 15 years ago during a sudden fight and the appellant has already undergone actual sentence of 3 years and 2 months and 6 days out of total sentence of 10 years and she would not press this appeal on merits in case the Court can reduce the sentence to that he has already undergone.

On the other hand, learned Assistant Advocate General, Punjab has argued, that as rightly pointed out by the trial Court, the discrepancies between the testimony of the two eye-witnesses can be attributed to normal loss of memory due to passage of time; they are superficial and do not go to the root of the matter in so much as both the eye-witnesses had categorically given the sequence of events and there is no discrepancy in that. He has further argued that the issue regarding lack of intention has been considered by the trial Court and factored into the sentence and therefore, there is no

ground for reducing the sentence at all.

In my opinion, on merits the discrepancies pointed out by the learned counsel for the appellant cannot be taken to be such as would go to the root of the matter because they primarily arise out of what happened after the incident. However, it cannot be denied that the present was a case of a drunken fight and the appellant has faced these proceedings for the last one and a half decade and there is some scope for reduction in the sentence. Consequently, I reduce the sentence of the appellant to 6 years. He is on bail. Let him be arrested to serve out the remaining period of sentence.

Appeal stands disposed of in the above terms.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

February 25, 2015

ps-I/pooja sharma-I

(AJAY TEWARI)
JUDGE