

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRA-S-1183-SB of 2000 (O & M)
Date of decision : 18.2.2015**

Pritpal Singh

.....Appellant

v.

State of Punjab

.....Respondent

CORAM : HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present : Mr. R.K. Chugh, Advocate, for the appellant

Ms. Minakshi Goyal, AAG, Punjab

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

Raj Rahul Garg, J.

Appellant Pritpal Singh alias Parmvir Singh son of Gurtej Singh called in question legality of the judgment dated 18.11.2000 and order on sentence of even date recorded by the learned trial Court. He further called in question the correctness of the conviction recorded vide which he was sentenced as under :

Under Sections	460 IPC	RI for 5 years	and fine of ₹1000/-
	326/34 IPC	RI for 3 years	and fine of ₹1000/-
	452 IPC	RI for 3 years	and fine of ₹1000/-

(The accused was sentenced with default stipulation and all the substantive sentences were ordered to run concurrently).

In brief, facts of the prosecution case are like this; that on 26.6.1997 complainant Arjinder Singh (PW2) was lying on a cot in his factory

situated at Gurdev Nagar, Ludhiana. At about 10.30 P.M. accused Pritpal Singh @ Marshal and Kuldip Singh @ Paramvir came on a motor cycle bearing Registration No. PB 10W 615 and entered into the factory after scaling over the gate. Accused Pritpal Singh was armed with iron pipe and accused Kuldip Singh with datar. Kuldip Singh remarked that he was staring at them and that they would teach lesson to him for doing so. Accused Pritpal Singh gave iron pipe blows to him on his right arm, left arm near elbow, right leg and back of his head. Kuldip Singh gave datar blows on his forehead and left leg. Accused Pritpal Singh then picked up the keys of almirah, lying underneath the pillow, and committed robbery of Rs.9500/-. When Zora Singh and Hoshiar Singh, employees in the factory, came there, both the accused ran away from the spot along with money and their respective weapons. Thereafter, his father Baldev Singh reached the factory, who brought him to Civil Hospital where he remained admitted for about 9 days. On 27.6.1997 ASI Jagroop Singh, on wireless message received in Police Station Division No.5 from Police Station Division No.2, reached Civil Hospital and vide Ex.PW7/A obtained opinion of the doctor regarding fitness of the injured to make statement. Statement of complainant Ex.PB was recorded which was signed by him. Ruka Ex. PB/1 was sent to the police station, on the basis of which FIR Ex.PB/2 was recorded by ASI Devinder Singh. Thereafter, the Investigating Officer went to the place of occurrence and prepared rough site plan. On 2.7.1997 both the accused were arrested from their houses. Motor cycle was taken into police possession vide memo Ex.PW7/C. On the disclosure statement Ex.PW7/D of accused Pritpal Singh, pipe in question was recovered from the bushes near Sunet Canal and taken into police possession vide memo Ex.PW7/E. Rough site plan of the place of recovery Ex.PW7/F was prepared. On 26.6.1997 Dr. Manjit Singh

Bajwa conducted the medical examination of the complainant and only one injury was declared as grievous. Statements of the witnesses were recorded and after completion of the necessary investigation, challan was put in Court against the accused-appellants.

Finding prima-facie case against the accused-appellant for committing offence punishable under Sections 452, 397, 459/460 and 326 read with section 34 IPC, he was charge sheeted accordingly, to which he pleaded not guilty and claimed trial.

After taking prosecution evidence, statement of accused under Section 313 Cr.P.C. recorded. Each and every incriminating allegation was put to the appellant to which he denied each allegation and pleaded his innocence. His plea in defence is that mother of the complainant contested election of Municipal Corporation against Bibi Gopal Kaur, who was supported by him and she won the election.

In defence, accused has also examined Smt. Gopal Kaur as DW 1 and Narinder Singh as DW 2.

After hearing learned counsel for both the parties and appraisal of entire evidence and material coming on record, the learned trial Court has convicted the accused-appellant along with co-accused and sentenced him as stated above.

Against the impugned judgment dated 18.11.2000 and order on sentence of even date, accused-appellant Pritpal Singh has filed this appeals.

I have heard Mr. R.K. Chugh, counsel for the appellant and Ms. Minakshi Goyal, AAG, Punjab for the State and have appraised the entire material coming on record.

When the appeal was fixed for hearing of arguments, learned

counsel for the appellant wanted to contest on the point of age of the appellant. However, today he stated at bar that he withdraws the application for treating Pritpal Singh appellant as juvenile.

As such, in view of his statement at bar, the application bearing CRM No. 34723 of 2014 is ordered to be dismissed as withdrawn.

Learned counsel for the appellant further stated at bar that he does not contest the findings of the conviction recorded by the learned trial Court on the merits of the case. However, in the matter of sentence, leniency may be shown. It was also argued by learned counsel for the appellant that his co-accused Kuldip Singh has already been given benefit in the matter of sentence. Likewise, he be also treated equally and benefit in the matter of sentence be given to him.

It is true that the case of co-accused Kuldip Singh has been decided by giving benefit to the appellant in the matter of sentence. Even otherwise, the present case is more than 14 years old. The appellant has already suffered a lot. In view of the case law submitted by learned counsel for the appellant, which is as under :-

1. **Chhota Singh v. State of Punjab 1998(1) RCR (Criminal) P & H 467;**
2. **Jai Pal v. State of Haryana 2003 (4) RCR (Criminal) P & H 860**
3. **Sardara Singh and others v. State of Punjab 2004 (3) RCR (Criminal) P & H 265**
4. **Bankat v. State of Maharashtra 2005 (1) RCR (Criminal) SC 306;**
5. **Badrilal v. State of Madhya Pradesh 2005 (7) SCC 55;**
6. **Gulab Das and others v. State of MP 2012 (1) RCR (Criminal) SC220**
7. **Narinder Singh and others v. State of Punjab and another 2014 (2) RCR (Criminal) SC 483.**

the appellant is entitled to leniency in the matter of sentence. In the above cited cases, after taking into consideration the factum of registration of the case as more than 10 years old and further, the fact that parties have settled the dispute, and also that no untoward incident has happened while the accused were on bail etc., leniency in the matter of sentence was shown to the accused while reducing their sentence to the one already undergone.

In the case in hand as well, the FIR was registered on 27.6.1997. Thus, the offence was allegedly committed more than 17 years ago. Now the parties have settled the dispute forever. They want to live in harmony with the other party. As per custody certificate, appellant Pritpal Singh has already undergone, with remissions, 1 year, 9 months and 4 days' sentence.

In such circumstances, while maintaining the conviction recorded under Sections 452, 326, 459 and 460 IPC against appellant Pritpal Singh son of Gurtej Singh, his sentence is reduced to one year and ten months in each offence, already undergone. However, the sentence of fine imposed stands maintained. All the substantive sentences shall run concurrently.

In view of the above discussion, this appeal is dismissed with the above modification.

(RAJ RAHUL GARG)
JUDGE

18.2.2015
Ashwani