

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

**Criminal Appeal S-1273-SB of 2004
Date of Decision: October 7, 2015**

Jai Parkash and anotherAppellants

Versus

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. G.S.Sandhu, Advocate
as amicus curiae for the appellants.

Mr. Dhruv Dayal, Deputy A.G., Haryana.

T.P.S.MANN, J. (Oral)

The two appellants, namely, Jai Parkash and Ved Parkash, sons of Ram Pal have filed the present appeal for challenging the judgment and order dated 17/19.2.2004 passed by learned Additional Sessions Judge, Faridabad whereby they were convicted under Section 307 IPC read with Section 34 IPC and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.2,500/- each and in default of payment of fine, to further undergo rigorous imprisonment for three months. Appellant-Ved Parkash was also convicted under Section 25 of the Arms Act and sentenced to undergo rigorous

imprisonment for three years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for one month. Both the substantive sentences in case of Ved Parkash were ordered to run concurrently.

According to the prosecution, Satender @ Sattu made statement before Sub Inspector Randhir Singh on 10.9.2001 that he was resident of Dabua Colony, Faridabad and President of the Three Wheelers Association, Faridabad. At about 8.00 p.m., he along with his brothers Dharmender and Jitender was present at the three wheeler stand. One driver, namely, Lala (Jai Parkash) came with Bedu (Ved Parkash), President of the Three Wheelers Association, Nangla Road and started picking up the passengers from Bata Chowk in his three wheeler. The complainant asked them not to do so. A quarrel ensued between them. The complainant, thereafter, was going via Bata Chowk, where he was caught hold of by Ved Parkash and fired at by Jai Parkash from a close range. The alarm raised by the complainant attracted his brothers Dharmender and Jitender. On seeing them, both the accused ran away from the spot along with the weapon.

The trial Court accepted the prosecution case in its entirety and convicted and sentenced the appellants, as mentioned above.

Having heard learned counsel for the parties and on going through the record of the case minutely, this Court finds that complainant-Satender @ Sattu had stepped into the witness box as PW3 and deposed about the manner, in which, he was caught hold of by Ved Parkash followed by Jai Parkash firing at him from a close range. The testimony of the complainant stands corroborated by that of his brother Jitender, who was examined by the prosecution as PW4. The testimonies of the two witnesses about the ocular account of the occurrence, were duly corroborated by PW8 Dr. Satish Chaku, CMO, Escorts Hospital and Research Centre, Faridabad, who while medico-legally examining the complainant found a wound of entry about 1.5 cm in the right infrascapular region directing downwards and laterally with tatting around the same. Haematoma over right side back surrounding the wound of entry was also found present and so also over left lumbar region. The doctor also opined that the kind of weapon used for causing the injury was firearm. Under these circumstances, no case is made out for any interference in the impugned judgment of conviction passed by the trial Court.

Both the appellants have been facing the agony of criminal prosecution for the last about fourteen years. Appellant-Jai Parkash was arrested on 27.9.2001 while appellant-Ved Parkash was arrested on 19.12.2001. Both of them remained in

custody throughout the trial of the case. During the pendency of the appeal, appellant-Ved Parkash was granted the concession of suspension of sentence by this Court vide order dated 2.12.2005, whereas the sentence of appellant-Jai Parkash was suspended on 17.4.2006. Thus, Jai Parkash has already undergone an actual period of four years, six months and twenty days while Ved Parkash has undergone an actual period of three years, eleven months and thirteen days. It may not be out of the place to mention here that an affidavit was submitted by complainant-Satender @ Sattu before the trial Court, which indicated that the parties had entered into a compromise. Further, during their examination under Section 235 Cr.P.C., the appellants had stated that they were first offenders.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the appellants behind the bars, once again, to undergo their remaining sentences of imprisonment. Ends of justice would be amply met, if the substantive sentences of imprisonment of both the appellants are reduced to that already undergone by them.

Resultantly, the conviction of the appellants, as recorded by the trial Court, is maintained. However, substantive sentences of imprisonment of the appellants are reduced to that

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already undergone by them. Sentences of fine along with their default clauses are maintained.

The appeal is, accordingly, disposed of.

October 7, 2015
amit rana

(T.P.S. MANN)
JUDGE