

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-1368-SB of 2004
Date of Decision:-04.12.2015

Heera Lal ...Appellant

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

- 1. Whether Reporters of local papers may be allowed to see the judgment? Yes
- 2. To be referred to the Reporters or not?
- 3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. Rahul Vats, Advocate,
for appellant.

Mr. Naveen Sheoran, DAG, Haryana.

SHEKHER DHAWAN, J. (Oral)

Present appeal filed by appellant-Heera Lal against judgment of conviction dated 30.04.2004 and order of sentence dated 03.05.2004 passed by Additional Sessions Judge, Faridabad, whereby appellant was convicted and sentenced as under:

<i>Offence under Section</i>	<i>Substantive sentence</i>	<i>In default</i>
U/s 307 IPC read with Section 149 IPC	RI for 7 years with fine of Rs.5,000/-	In default to undergo further RI for 6 months.
U/s 326 IPC read with Section 149 IPC	RI for 5 years with fine of Rs.2,000/-	In default to undergo further RI for 3 months.
U/s 324 IPC read with Section 149 IPC	RI for 1 year	--
U/s 148 IPC	RI for 1 year	
All sentences were ordered to run concurrently.		

2. Briefly, relevant facts of the case that on 06.05.1998 Radhey Shyam Verma along with Ashok (injured) was present in his house. At about 8.00 P.M. Mukesh @ Phirey came to his house and called Ashok and took him near the Kutia where Heera Lal (appellant) and Rakesh @ Banti and two others were already present. They were armed with axe, knife and 'dandas'. At that time present appellant Heera Lal gave axe blow on the head of Ashok while others gave knife and 'danda' blows. Ashok fell down on the ground. Shodan and Vinod Kumar rescued Ashok and informed Radhey Shyam about the occurrence. Accused persons also threatened Ashok to kill him at future available opportunity.

3. Appellant Heera Lal remained away from the Court and was declared proclaimed offender and subsequently he was arrested and tried. Learned trial Judge after completing various formalities of trial including stages of trial of the case including framing of charge against the accused persons, recording statement of prosecution witnesses, examining accused under Section 313 Cr.P.C. and after considering the prosecution evidence and defence version held the appellant-accused guilty and convicted and sentenced him accordingly.

4. Learned counsel for the appellant while arguing on the appeal fairly conceded that the appeal against judgment of conviction is without any merit and same be dismissed. However, a lenient view on the point of sentence be taken as appellant Heera Lal has already faced protracted litigation of about 20 years. In this case he has been awarded substantive sentence of 7 years and he has already undergone the actual sentence of 2 years and 10 months during investigation and trial of the case and the sentence may be reduced to the one already undergone by the appellant.

5. While arguing on this point learned State counsel Mr. Naveen Sheoran, Deputy Advocate General, Haryana urged that conduct of appellant during trial and at the time of commission of offence was not of such a nature that a lenient view could be taken. Appellant Heera Lal had allegedly caused injury on the temporal region of the head of Ashok with axe but to the goodluck of Ashok, he could survive. The conduct of appellant Heera Lal during trial was that he remained away from the Court for a pretty long period and in that process he was declared proclaimed offender by the Court. Learned trial Judge had already taken most reasonable view on the point of sentence and appeal against order of sentence be also dismissed.

6. Having considered the submissions made by learned counsel for both the parties and the fact that prosecution has been able to prove the guilt against appellant Heera Lal, because Ashok victim/injured of this case has stated in so many words before the Court that appellant Heera Lal had caused injury on his head with the axe. The medical evidence supports the version of complainant. The remaining prosecution witnesses also supported the prosecution case in toto. The defence version is just a plea of denial and learned trial Judge has rightly held the appellant-accused guilty in accordance with law. The position being so, and the fact that appellant does not challenge the judgment of conviction, appeal filed by present appellant against judgment of conviction dated 30.04.2004 stands dismissed being devoid of any merit.

7. As regards to the appeal against order of sentence dated 03.05.2004, appellant has already undergone the actual sentence of 2 years and 10 months. In the present appeal, on the point of sentence, certainly a

little lenient view can be taken and the substantive sentence of the appellant is reduced from 7 years to 5 years. He is ordered to make payment of fine of ₹5,000/- and in case of non-payment of fine he shall undergo 2 months RI. It is made clear that appellant Heera Lal shall be entitled to set off all the period which he has spent while remaining in custody during the trial and post conviction period, if any.

8. In view of the above modification the present appeal stands disposed of.

9. Vide order dated 17.12.2004, appellant Heera Lal was released on bail by this Court during the pendency of the appeal. His bail/surety bonds are cancelled. He be arrested and sent to jail to undergo the remaining part of sentence. Learned trial Judge is directed to comply with this order forthwith under intimation of this Court.

December 04, 2015

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**(SHEKHER DHAWAN)
JUDGE**