

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

-:-

Crl. Appeal No. S-503-SB of 2004

Decided on : August 12, 2015

Abdul Majid & Ors.

... Appellants

Versus

State of Haryana

... Respondent

CORAM : HON'BLE MR. JUSTICE MAHAVIR S. CHAUHAN

Present : Mr. Sharad Aggarwal, Advocate, for the appellants.

Ms. Tanisha Peshawaria, DAG, Haryana, for the respondent-State.

Mahavir S. Chauhan, J. (Oral)

Learned State counsel has placed on record a short reply of Superintendent, District Jail, Gurgaon, according to which on verification by the police, appellants Abdul Mazid and Rasid Ss/o Ganimal have died on 02.07.2011 and 23.12.2013, respectively.

In view of the above, appeal qua appellants Abdul Mazid and Rasid abates.

The appeal now survives qua Jakir, Tayyub, Akhtar, Azeej and Akbar.

Heard.

Appellants along with Abdul Mazid and Rasid were tried for commission of offences punishable under Sections 148, 323/149, 452/149, 307/149 and 506 of the Indian Penal Code, 1860 ('IPC' – for short) and after full-fledged trial have been convicted and sentenced to undergo rigorous imprisonment for a term of one year for the offence punishable under Section 148 IPC, rigorous imprisonment for a term of six months for the offence punishable under Section 323, IPC, and rigorous imprisonment for a term of

one year and a fine amounting to Rs.500/- and in default of payment of fine to further rigorous imprisonment for one month under Section 452 IPC, while acquitting them of the offences under Section 307, 506 IPC and Section 25 of Arms Act, vide judgment dated 11.02.2004 and order dated 12.02.2004, passed by the learned Additional Sessions Judge, Gurgaon (for short – 'trial Court').

Learned counsel for the appellants has, at the very outset, submitted that the appellants are first offenders, have no criminal history before and after the occurrence in question though they are on bail since 2004 and the complainant has exhibited no intention to proceed further with the matter as he intends to live in harmony with the appellants. Learned counsel has also placed on record a writing to this effect and prays for leniency as regards quantum of sentence or for release on probation. He, however, does not dispute the findings of conviction recorded by the learned trial Court.

In view of above, coupled with the fact that the appellants have been facing agony of tough investigation, protracted trial and consequent proceedings since 03.12.2001, are the only bread-winners of their respective families, while maintaining the judgment of conviction, order on quantum of sentence is set aside and, instead the appellants, who are on bail are ordered to be released on probation on their furnishing probation bond and an undertaking to maintain peace and be of good behavior for a period of one year, to the satisfaction of the learned Chief Judicial Magistrate, Gurgaon. Amount of fine as imposed by the learned trial Court shall be treated as cost of the litigation.

With the above modification in the order on quantum of sentence, the appeal fails and is dismissed.

[Mahavir S. Chauhan]
Judge

August 12, 2015