

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

**Criminal Appeal S-795-SB of 2004
Date of Decision : September 2, 2015**

Sat Pal

.....Appellant

Versus

State of Haryana

..... Respondent

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

Present : Mr. Ashok Khubbar, Advocate
for the appellant.

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

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

The appellant, alongwith Virender and Ram Lakhan, was tried for committing offences punishable under Section 412 IPC on the allegations that they had dishonestly retained stolen property i.e. Eicher Tractor and its parts belonging to Inder Pal, knowing fully well that the same had been transferred by commission of dacoity.

Vide judgment and order dated 13/15.3.2004, the Additional Sessions Judge, Yamunanagar at Jagadhri, convicted the appellant for the aforementioned offence and sentenced him to undergo rigorous imprisonment for a period of three years and

to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months. At the same time, his two co-accused were acquitted of the charge against them.

The case of the prosecution has been reproduced by the trial Court in para No. 2 of the impugned judgment of conviction, which reads as under:-

“Brief facts of the prosecution case are; that the police party arrested number of persons including the present three accused and others under Section 399/402 IPC and F.I.R. no. 54 was recorded. During investigation of that case, accused Sat Pal made disclosure statement alleging therein that about two months back he has come to Chander Pal in Hamida Colony, Yamuna Nagar. That he came in contact with other persons. That his brother-in-law Chander Pal required him to bring tractor from their village for Inam. That he along with Virender, Ram Lakhan Babloo and Satish went in their nearby village Udpur and noticed a tractor make Eicher bearing no. PJV-6350 being used for irrigating the land and two persons were sleeping nearby. That all of them

caused injuries with danda blows to those two persons and tied their hands on the back side and threw them in the sugar cane field. That tractor was removed from the tubewell and he along with Babloo brought the tractor to Yamuna Nagar for sale to Inam. However, Inam refused to take the tractor. Then he removed one Puliya, dynamo, light and lift and put in two bags and kept in the house of Chander Pal by concealing under the Sarkandas. That out of fear, the tractor was pushed in the Canal near Ghora bridge and except him, no body knows about it. After this disclosure statement Ex.PE the above referred parts of tractor were recovered from the pointed place vide memo Ex.PH and were taken into possession under Section 102 Cr.P.C. Thereafter, the complainant Inder Pal whose tractor was allegedly snatched, was summoned. Inder Pal then gave statement Ex.PA, interalia, alleging that his son along with one Jagdish were irrigating the field with the help of tractor no. PJV-6350. That they were sleeping. Five/six persons came there and inflicted injuries to them and took the tractor away. That the hands of

his son and that of Jagdish were tied. That they were searching for the same but it was not available. He produced copy of F.I.R. No. 10 of 2000 under Section 394 IPC registered in P.S. Jhinhana, Uttar Pradesh. Upon this information rukka was sent to the police station and FIR Ex.PB was registered under Section 412 IPC. Then on the next day i.e. 1.9.2000 Som Pal and Rajvir of village Udpur came to the CIA staff where Sat Pal disclosed the place where he was pushed the tractor. A crane was summoned and the tractor was taken out. It was bearing no. PJV-6350. It was identified to be same tractor by Som Pal being brother of complainant and it was taken into possession vide memo Ex.PD. The confessional statement Ex.PF of Ram Lakhan and Ex.PG of Virender was also recorded to the effect that they were part of commission of dacoity. After usual investigation, challan was presented in the court and they were charge sheeted for the above said offence vide order dated 27.7.2001 of Shri D.S. Sheoran, my learned predecessor to which they pleaded not guilty and claimed trial.”

In support of its case, the prosecution had examined eight witnesses. The plea of the appellant was of denial. However, he did not lead any evidence in his defence.

The trial Court believed the prosecution case against the appellant and convicted and sentenced him, as mentioned above.

Learned counsel for the appellant submits that he does not challenge the conviction of the appellant. However, he submits that the appellant has been facing the agony of criminal prosecution for the last more than fifteen years. Further, he had remained in jail as an under-trial for about one and a half month. The appellant is not a previous convict. During his examination under Section 235 Cr.P.C., before the trial Court, he had claimed that he was a poor person and had two minor daughters to look-after. His parents were old and except him there was none in the family to earn the daily bread. Accordingly, prayer has been made for reduction of sentence.

As per the custody certificate produced by the State counsel, the appellant has already undergone a period of one month and eleven days.

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 appellant behind the bars,

once again, to undergo remaining sentence of imprisonment imposed upon him. Ends of justice would be amply met if the substantive sentence of imprisonment imposed upon him is reduced to that already undergone by him.

Resultantly, the conviction of the appellant under Section 412 IPC is maintained. However, his substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs.1,000/- imposed upon the appellant is, however, enhanced to Rs.5,000/- and in default of payment of fine, the appellant shall undergo rigorous imprisonment for one year.

The appeal is, accordingly, disposed of.

September 2, 2015
amit rana

(T.P.S. MANN)
JUDGE