

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.S-802-SB of 2004
Date of Decision : January 27, 2015

Satbir @ Bira and others

.....Appellants

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. A.K. Bakshi, Advocate as amicus curiae and
Mr. C.S. Rana, Advocate
for the appellants.

Mr. Munish Dev Sharma, Assistant A.G., Haryana.

Mr. Karnail Singh, Advocate for
Mr. Hari Om Sharma, Advocate
for the complainant.

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

By this common judgment, this Court intends to dispose of the present appeal filed by the three convicts as well as Criminal Revision No.1460 of 2004 filed by Raj Bala, widow of complainant-Dharam Singh, as both the matters have arisen out of the same judgment of conviction and sentence passed by the Additional Sessions Judge, Sonapat.

Vide impugned judgment, the three appellants were convicted under Section 306 IPC and sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.3,000/- and in default of payment of fine, to undergo rigorous imprisonment for six months.

The case of the prosecution, in nutshell, is that Krishan Kumar son of complainant Dharam Singh had teased Seema by catching hold of her hands on 23.10.2000. Later on, the three

appellants, who are related to Seema, had given beatings to Krishan Kumar. Feeling ashamed on account of being beaten by the three appellants, Krishan Kumar ended his life by hanging himself.

Though the FIR was initially registered under Section 302 IPC yet during the investigation of the case, the police altered the offence to one under Section 306 IPC.

Learned counsel for the appellants have submitted that they do not challenge the conviction of the appellants for offence under Section 306 IPC. They have only prayed for reduction of the sentences of imprisonment imposed upon the appellants on the ground that the appellants are facing the agony of criminal prosecution for the last more than 14 years. All the appellants are first offenders and they had claimed before the trial Court that they were poor labourers and the only source of earning for their respective families. They have also relied upon the judgment in the case of Dharam Pal Vs. State of Punjab, 2010(4) RCR (Criminal) 920, wherein the sentence of imprisonment of the appellant therein, who stood convicted under Section 306 IPC and sentenced to undergo rigorous imprisonment for seven years, was reduced to the one already undergone, i.e. two months.

Learned State counsel as well as learned counsel for the complainant have vehemently opposed the prayer made on behalf of the appellants by submitting that all the appellants created circumstances which led Krishan Kumar to commit suicide by hanging himself. Learned counsel for the complainant has also submitted that the three appellants are liable to be convicted under Section 302 IPC.

A perusal of the impugned judgment reveals that after the presentation of the challan, the appellants were charged for the offence under Section 306 IPC only. No charge under Section 302 IPC

was framed against them. In such a situation, none of the three appellants can now be convicted for committing offence under Section 302 IPC.

As regards the quantum of sentence of imprisonment, this Court, hereby, refers to the jail custody certificates, as per which each of the appellants has undergone a period of 4 months and 20 days. They are not found to be involved in any other criminal case.

In view of the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the appellants back to jail for undergoing their remaining sentences of imprisonment. Ends of justice would be amply met if their substantive sentences of imprisonment are reduced to the one already undergone by them.

Resultantly, the conviction of the appellants under Section 306 IPC is upheld. However, their sentences of imprisonment are reduced to the one already undergone by them. The sentence of fine, alongwith its default clause, is maintained.

The appeal filed by the three appellants is partly allowed to the extent indicated above.

However, Criminal Revision No. 1460 of 2004 filed by Raj Bala, widow of complainant Dharam Singh, is dismissed.

January 27, 2015
satish

(T.P.S. MANN)
JUDGE