

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision: 09.10.2015

CRA-D No.1422-DB of 2015

State of Haryana

...Appellant

Versus

Shakil & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE RAJ RAHUL GARG**

Present: Mr. Vivek Saini, AAG, Haryana, for the appellant.

Mr. Mohan Singh Rana, Advocate, for the respondents.

HEMANT GUPTA, J. (ORAL)

Present appeal is preferred by the State against the judgment of conviction and order of sentence rendered by the Additional Sessions Judge, Palwal on 22.04.2015 claiming enhancement of sentence on the ground that the sentence awarded by the learned trial Court for a period of three years is inadequate for an offence under Section 307 IPC.

We have gone through the order passed by the learned trial Court and find that the respondents stand convicted for an offence under Section 307 IPC read with Section 34 IPC on the allegation that they have tried to run over Rahish and Khushnood sons of Ishra @ Israil by 10 tyres truck.

Having heard learned counsel for the appellant, we find that no case is made out for interference in the present appeal. The learned trial Court relied upon the statements of PW-8 Khushnood and PW-10 Rahish to

convict the accused, but at the same time held that where direct evidence is available on file, then motive takes a back seat.

The present is a case of run over of the victim by a truck. In such circumstances, unless there is a motive, it cannot be said to be an offence punishable under Section 307 IPC, else it will be a case of accident covered by Section 304-A IPC. The FIR was lodged after 24 hours. Thus, we find that such factors must have weighed with the trial Court to impose punishment of three years rigorous imprisonment. The trial Court has exercised the judicial discretion in a particular manner, therefore, sitting in appeal, we do not find any illegality or perversity in the quantum of sentence.

Thus, Court is not exercising the jurisdiction as that of the trial Court. Being a trial Court, there is discretion vested in the Court to grant such punishment, as it may consider appropriate, but once the trial Court has imposed punishment of three years rigorous imprisonment, we do not find that such quantum of punishment can be interfered with in the facts and circumstances of the present case.

Consequently, we do not find any merit in the present appeal. The same is dismissed.

(HEMANT GUPTA)
JUDGE

09.10.2015
preeti/Vimal

(RAJ RAHUL GARG)
JUDGE