

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.D-568-DB of 2015

Date of Decision : May 28, 2015

Ram Partap

.....Appellant

VERSUS

State of Punjab and others

.....Respondents

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

Present : Mr. Rajesh Narang, Advocate

T.P.S. MANN, J.

The appellant has filed the present appeal for challenging the judgment dated 11.12.2014 passed by the learned Additional Sessions Judge, Fazilka to the extent of acquitting respondents No.3 and 4-Sundran Devi and Gurvir Kaur, respectively of the charges under Sections 307, 326 and 120-B IPC. Prayer has also been made for enhancing the sentence of respondent No.2-Sunil Kumar.

Respondents No.2 to 4 were tried for committing the aforementioned offences on the allegations that in pursuance of the conspiracy, respondent Sunil Kumar, with an intent to kill Kanta Rani, daughter of the appellant, had given one injection infected with HIV positive to said Kanta Rani, as a result of which, she acquired HIV and her eyes got affected and blindness started developing.

After going through the evidence and hearing learned counsel for the parties, the trial Court convicted Sunil Kumar of the charges under Sections 307 and 326 IPC and sentenced him to undergo rigorous imprisonment for nine years and to pay a fine of

Rs.5,000/- on each of the two counts. Both the sentences were ordered to run concurrently. In addition, respondent Sunil Kumar was also directed to compensate Kanta Rani to the tune of Rs.4,00,000/- in view of the provisions of Section 357 Cr.P.C. At the same time, respondents Sundran Devi and Gurvir Kaur were acquitted of the charges against them.

Though the appellant has prayed for enhancement of the sentence of imprisonment of respondent Sunil Kumar yet for such a purpose, the present appeal filed by the appellant is not maintainable in view of proviso to Section 372 Cr.P.C.

Learned counsel for the appellant submits that he may be allowed to withdraw the appeal to the extent of enhancing the sentence of respondent Sunil Kumar with liberty to seek any other remedy available to him under the law.

As regards the acquittal of respondent Sundran Devi, suffice it to state that her name was not mentioned in the application initially submitted by the appellant. During the enquiry conducted by PW13 Varinder Singh Brar, Commandant, the appellant did not mention the name of Sundran Devi as one of the accused. He only pleaded therein for taking action against Sunil Kumar and Gurvir Kaur. As regards the acquittal of Gurvir Kaur, it may be worthwhile to notice that no specific role was attributed to her of conspiring with Sunil Kumar to inject HIV positive injection to Kanta Rani. Merely because Gurvir Kaur was alleged to be residing with Sunil Kumar is no ground to hold that she had conspired with him to give injection of

AIDS to Kanta Rani. Thus, no fault can be found with the impugned judgment to the extent of acquitting accused Sundran Devi and Gurvir Kaur of the charges against them.

Resultantly, the appeal, insofar as it relates to the prayer of the appellant for enhancement of the sentence of respondent Sunil Kumar, is dismissed as withdrawn with liberty to the appellant to seek any other remedy available to him under the law.

As regards the acquittal of respondents Sundran Devi and Gurvir Kaur, the appeal is dismissed.

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

May 28, 2015
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Criminal Misc. No.12155 of 2015 in
Criminal Appeal No.D-568-DB of 2015

Ram Partap Vs. State of Punjab and others

Present : Mr. Rajesh Narang, Advocate
for the applicant.

Heard. Sufficient cause has been shown for condoning the delay in filing of the appeal. The application is, therefore, accepted and the delay of 32 days in filing of the appeal is condoned.

(T.P.S. MANN)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

May 28, 2015
satish