

CRA-S-2649-SB-2010

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

CRA-S-2649-SB-2010 (O & M)

Date of Decision: 06.05.2015

Rafikul Islam @ Khokhan and others

... Appellant (s)

Versus

State of Haryana

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. J.S.Mehndiratta, Advocate,
for the appellants.

Mr. Naveen Sheoran, DAG, Haryana.

Paramjeet Singh, J.

Custody certificates of appellants filed in Court are taken on record.

Present criminal appeal has been preferred by the appellants against judgment of conviction dated 26.03.2010 and order of sentence dated 29.03.2010 passed by learned Additional Sessions Judge, Gurgaon whereby appellants have been convicted and sentenced as under:

<i>Conviction</i>	<i>Sentence</i>
u/S 395 read with Section 397 IPC	R.I. for 10 years and fine of ₹3,000/- each, in default of payment of fine, R.I. for six months each.
u/S 412 IPC	R.I. for 7 years and fine of ₹2,000/- each, in default of payment of fine, R.I. for four months each.

CRA-S-2649-SB-2010

I need not dilate upon the facts of this case in detail as the same have already been recapitulated in the judgment of the learned Court below and in view of the ultimate prayer of the appellants seeking reduction in sentence.

I have heard the learned counsel for the parties and perused the record.

Learned counsel for the appellants states that he is not pressing this appeal on merit and is not challenging the conviction on merit. He is only aggrieved against the sentence part. Learned counsel for the appellants prays that sentence of the appellants be suitably reduced as this criminal trial is hanging on their heads like Damocle's sword for more than 7½ years and it should be a sufficient mitigating circumstance to treat them leniently. Learned counsel for the appellants has further submitted that FIR relates to the year 2007 and since then a period of more than 7½ years has elapsed. The appellants have suffered the ordeal of trial for this long period. Learned counsel for the appellants submits that each appellant has already undergone actual imprisonment for approximately seven years and seven months.

In view of the arguments advanced by learned counsel for the appellants, this Court is of the view that no useful purpose will be served by keeping the appellants behind the bars as the appellants had already faced ordeal for more than 7½ years. As per custody certificates, the appellants have undergone actual imprisonment for more than/about seven years and seven months. It is a fit case wherein sentence awarded to the appellants can be reduced to already undergone. Ordered

CRA-S-2649-SB-2010

accordingly. The impugned order of sentence and conviction stands affirmed with aforesaid modification. The appellants, who are stated to be in judicial custody, shall be released forthwith, if not required in any other case. However, if the amount of fine is not paid, each appellant will have to undergo default imprisonment as awarded by the trial Court.

With the observations made above, present appeal is disposed of.

06.05.2015
parveen kumar

(Paramjeet Singh)
Judge