

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA, CHANDIGARH

CRA-D-691-DB of 2015 (O&M)
Date of Decision : 06.07.2015

Kulwant RaiAppellant

Vs.

State of Punjab and OthersRespondents

CORAM : HON'BLE MR.JUSTICE S.S.SARON
HON'BLE MR.JUSTICE RAMENDRA JAIN

Present:- Mr.Sumeet Puri, Advocate for the appellant.

S.S.SARON, J.

Kulwant Rai-appellant who is the complainant has filed this appeal seeking modification of the impugned judgment and order dated 27.11.2014 passed by the learned Additional Sessions Judge, Sangrur by enhancing the sentence awarded to respondents No.2 to 7 and also to enhance the fine. Alongwith the appeal, Criminal Miscellaneous No.14574 of 2015 has been filed seeking condonation of 78 days delay in filing the appeal.

Respondents No.2 to 7 have been convicted by the learned Additional Sessions Judge, Sangrur for the offences punishable under Sections 326, 324, 452, 149, 148 alongwith Section 506 IPC. They have been sentenced for varying periods of imprisonment for the said offences, the maximum being rigorous imprisonment for two years, besides, pay a fine of Rs.1,000/- and in default thereof undergo further rigorous imprisonment for 6

months for the offence under Sections 326/149 IPC.

In terms of proviso to Section 372 Cr.P.C., a victim has a right of appeal against any order passed by a Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation. The said proviso does not provide for a right to appeal to the appellant against inadequate sentence or for enhancement of sentence.

The Supreme Court in the case of ***National Commission of Women v. State of Delhi and Anr., 2010 (4) R.C.R. (Criminal) 758***, has held that the proviso inserted by Section 372 Cr.P.C. w.e.f. 31.12.2009, gives a limited right to a 'victim' to file an appeal in the High Court against any order of a Criminal Court acquitting the accused or convicting him for a lesser offence or the imposition of inadequate compensation. It does not envisage an appeal against inadequate sentence.

In the circumstances, the appeal filed by Kulwant Rai-complainant is not maintainable. However, he may, if so advised, avail his other remedies in accordance with law.

In view of the above, the appeal is dismissed as not maintainable. As the appeal has been dismissed being not maintainable, the question of delay in filing the appeal is only academic and, therefore, the criminal miscellaneous application seeking condonation of 78 days delay in filing the appeal is also dismissed.

(S.S.SARON)
JUDGE

06.07.2015

(RAMENDRA JAIN)
JUDGE