

CRA-S-2710-SB of 2010

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

CRA-S-2710-SB of 2010
Date of decision: 06.05.2015

Jalaluddin @ Jallu and another

....Appellants

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: - Mr. Sudesh Sahi, Advocate, for
Mr. Ashish Gupta and Mr. Arvind Kashyap, Advocates,
for the appellants.
Mr. Naveen Sheoran, DAG, Haryana.

PARAMJEET SINGH, J. (ORAL)

Custody certificates, filed in Court today, are taken on record.

Present criminal appeal has been preferred by the appellants against judgment of conviction dated 28.09.2010 and order of sentence dated 29.09.2010 passed by the learned Additional Sessions Judge, Nuh, in a case arising from FIR No.245 dated 19.07.2008 registered under Sections 398/401 IPC and Section 25 of the Arms Act, at Police Station Nuh, whereby appellants have been sentenced to undergo rigorous imprisonment for a period of four years and to pay fine of Rs.2000/- each for an offence punishable under Section 398 IPC, in default of payment of fine to further undergo rigorous imprisonment for a period of six months each, to undergo rigorous imprisonment for a period of four years each for an offence punishable under Section 401 IPC and to pay

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fine of Rs.2000/- each, in default of payment of fine to further undergo rigorous imprisonment for a period of six months each. Appellant No.1 – Jalaludin has been sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of Rs.2000/- for an offence punishable under Section 25 of the Arms Act, in default of payment of fine to further under rigorous imprisonment for a period of six months. All the sentences have been ordered to run concurrently.

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 appellant 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. He prays that the sentence of the appellants be suitably reduced as this criminal trial is hanging on their heads like damocle's sword for about seven years and it should be a sufficient mitigating circumstance to treat them leniently. Learned counsel for the appellants has further submitted that the FIR pertains to the year 2008 and since then a period of about seven years has elapsed. The appellant has suffered the ordeal for long period. Learned counsel for the appellants submits that so far as appellant No.1 – Jalaludin @ Jallu is concerned he has already undergone sentence of four years. So

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far as appellant No.2 – Rashid is concerned, out of four years he has already undergone about two years of sentence. He is the first offender and no major role has been attributed to him.

In view of the arguments advanced by learned counsel for the appellants, which have been noted above, this Court is of the view that no useful purpose will be served by keeping the appellants behind the bars further as the appellants faced ordeal for about seven years. As per custody certificate, appellant No.1 has undergone four years of sentence (including remissions) and appellant No.2 has undergone total sentence of two years and four days. It is a fit case wherein sentence awarded to the appellants can be reduced to already undergone. Ordered accordingly. The impugned judgment of conviction and order of sentence and, including default clause, stand affirmed with aforesaid modification. It goes without saying that if the amount of fine is not deposited, the appellants will serve the default part of sentence.

With the observations made above, present appeal is disposed of with a direction that appellant No.1, who is stated to be in custody, be released immediately, if not required in any other case. Appellant No.2 is stated to be already on bail granted by this Court vide order 24.08.2012.

(Paramjeet Singh)
Judge

May 06, 2015
R.S.