

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRA-D-989-DB-2015(O&M)
Date of decision : 20.08.2015

Sukhwinder Singh

... Appellant

Versus

Rattan Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE S.S.SARON
HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr.Jatinder Pal Singh, Advocate
for the appellant.

S.S.SARON, J.

This appeal has been filed by the appellant Sukhwinder Singh (PW5) against the acquittal of Rattan Singh son of Tara Singh and Gurwinder Singh son of Rattan Singh (respondents No.1 and 2) for the offence punishable under Section 307/34 Indian Penal Code ('IPC' - for short) and also for enhancing the sentence imposed on said respondents No.1 and 2 for the offences under Sections 302, 324 read with Section 34 IPC. It is also submitted by the learned counsel for the appellant that no compensation has been awarded to the 'victim', which was liable to be awarded.

Learned counsel for the appellant during the course of hearing submits that the appeal for enhancement of the sentence for the offences committed by respondents No.1 and 2 under Sections 302, 324 and 34 IPC at the behest of the 'victim' would not be maintainable in view of proviso to Section 372 Code of Criminal Procedure ('Cr.P.C.' - for short) as also judgment of Hon'ble the

Supreme Court of India in National Commission of Woman v. State of Delhi and another, 2010 (4) RCR (Criminal) 758. Therefore, he does not press for the same.

Insofar as payment of compensation is concerned, it is to be noticed that no compensation has been awarded in the present case. The proviso to Section 372 Cr.P.C. provides for an appeal by a 'victim' against inadequate compensation and not for no compensation. Besides, there is no prayer in the grounds of appeal for award of compensation.

In the circumstances, learned counsel for the appellant submits that he does not press for claiming compensation in the present appeal, however, he be given liberty to file necessary application for grant of compensation in the pending appeal i.e. CRA No.D-628-DB of 2015 filed by Rattan Singh and Gurwinder Singh (respondents No.1 and 2) against their conviction and sentence. He also prays that without prejudice to the rights of the appellant especially in the aforesaid pending appeal i.e. CRA No.D-628-DB-2015 filed by the convicts against their conviction and sentence, he does not press the appeal against the acquittal of respondents No.1 and 2 for the offences under Section 307/34 IPC, lest it may affect the rights of the appellant in the said appeal. Therefore, he prays for permission to withdraw this appeal with liberty to file an application praying for compensation in accordance with law in the pending appeal i.e. CRA No.D-628-DB-2015 filed by Rattan Singh and Gurwinder Singh (respondents No.1 and 2) against their conviction and sentence.

The appeal is accordingly dismissed as withdrawn, which shall be without prejudice to the rights of the appellant to claim

compensation in the pending appeal i.e. CRA No.D-628-DB-2015 filed by Rattan Singh and Gurwinder Singh (respondents No.1 and 2) and the withdrawal of the appeal against the acquittal of respondents No.1 and 2 for the offence under Section 307/34 IPC shall also not be taken as an expression of opinion on merits of the appeal i.e. CRA No.D-628-DB-2015 filed by Rattan Singh and Gurwinder Singh (respondents No.1 and 2).

(S.S.SARON)
JUDGE

(REKHA MITTAL)
JUDGE

August 20, 2015.
Davinder Kumar/A.Kaundal