

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal S-32-SB of 2010
Date of Decision : December 8, 2015

Sandeep @ Kala		Appellant
	Versus	
State of Haryana		 Respondent

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

Present : Mr. Anil Malik, Advocate
for the appellant.

Mr. Dhruv Dayal, Deputy A.G., Haryana.

T.P.S.MANN, J. (Oral)

The appellant was tried for committing offences punishable under Sections 307 and 506 IPC and Section 25 of the Arms Act on the allegations that on 9.12.2006, he fired at Smt. Shakuntla, wife of complainant Charan Singh with an intention to kill her. Vide impugned judgment and order dated 28/29.10.2009, the learned Additional Sessions Judge, (Fast Track Court), Hisar, convicted him for the offence under Section 307 IPC and sentenced to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months. He was also convicted under Section 25 of the Arms Act and sentenced to undergo rigorous imprisonment for a period of one year and to

pay a fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of seven days. Both the sentences were ordered to run concurrently.

The case of the prosecution as noticed by the trial Court in para 2 of the impugned judgment is reproduced hereinbelow:-

“The prosecution case in brief is that on 9.12.2006, complainant Charan Singh S/o Chatar Singh R/o Urban Estate Jind, lodged a complaint with the police party headed by Surender Singh SI/SHO who was on patrolling duty near Khanda turn Nasod, according to which his wife and sister- in-law Dayawanti are real sisters. After the death of Rupa Devi, his mother-in-law, in the year 2003, Dayawanti his sister-in-law transferred her share of land in favour of his wife Shakuntla since the complainant incurred expenditure on the marriage of two daughters of Dayawanti. As per complainant, they are in possession of the land which had been given by them on lease to the villagers of village Mirchpur. He alongwith his son Amit Kumar and wife went to village Mirchpur and were present in the fields of Narawala fields when Sandeep S/o Hawa Singh R/o Nidhani P. S.Sadar Jind, who is son of his sister-in-law Dayawanti and who was already present in the fields gave a lalkara that he is carrying a pistol and that he will not leave them alive, with an intention to kill them fired a shot at his wife which hit his wife on right shoulder due to which she fell down. Thereafter, Sandeep hit the butt of pistol on the head of his wife and thereafter ran away from the spot alongwith the

pistol. As per complainant, the occurrence took place at about 4.00 p.m. and that Sandeep attacked them since he was having grudge against them due to the land transferred by Dayawanti to them regarding which a civil suit was also pending at Civil Court Hansi. The complainant and his son Amit got Shakuntala admitted in CHC Narnaund. On the basis of above statement, investigation was started. Constable Arjun Singh was sent to the police station for registration of FIR. Statement of witnesses were recorded. After that the accused was arrested in the present case.”

Having heard learned counsel for the parties, this Court finds that the prosecution had led sufficient evidence by way of testimonies of PW10 Charan Singh and PW13 Smt. Shakuntala, who deposed about the manner, in which, the appellant first fired at Smt. Shakuntla with an intention to kill her and the fire hit her on her right shoulder. Thereafter, the appellant used butt of the pistol in giving an injury on the head of Smt. Shakuntla. The ocular account of the occurrence stands duly corroborated from the testimony of PW12 Dr. Sanjay Verma, who had medico-legally examined Smt. Shakuntala on 9.12.2006 at 10.30 p.m. and found the following injuries on her person:-

- (i) Wound of 3.5 X 2 c.m. present over anterior aspect of right shoulder 3 c.m. below right acromion process, fresh bleeding present. Margin everted.

- (ii) Lacerated wound of 1.5 X 1 c.m. present over posterior aspect of right shoulder. 7 c.m. below right acromion process. Bleeding present, margins everted.
- (iii) Lacerated wound of ½ X 1/3 c.m. present over scalp on left temporal parietal region. Clotted blood present.

In view of the above, no case is made out for any interference in the impugned judgment of conviction passed by the trial Court.

Coming to the quantum of sentence of imprisonment to be imposed upon the appellant, suffice it to say that the appellant is facing the agony of criminal prosecution for the last nine years. Out of the sentence of seven years imposed upon him, he has already undergone an actual sentence of three years, eight months and twenty nine days as indicated in the custody certificate produced by the State counsel. The appellant is not shown to be involved in any other criminal case. He is now on bail since 25.5.2012. Under these circumstances, no useful purpose will be served by sending the appellant behind the bars, once again, to undergo remaining sentences of imprisonment imposed upon him.

Resultantly, the conviction of the appellant for the offences under Sections 307 IPC and Section 25 of the Arms Act is upheld. However, his substantive sentences of imprisonment on both the

counts are reduced to the one already undergone by him. At the same time, the fine of Rs.10,000/- imposed upon the appellant for the offence under Section 307 IPC is enhanced to Rs.25,000/- and in default thereof, he shall undergo rigorous imprisonment for nine months. The fine already imposed upon the appellant for the offence under Section 25 of the Arms Act along with its default clause is maintained. The entire amount of fine, when deposited by the appellant be disbursed to the injured, namely, Smt. Shakuntla, as compensation.

The appeal is, accordingly, disposed of.

December 8, 2015
amit rana

(T.P.S. MANN)
JUDGE