

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

Crl. Appeal No.S-2682-SB of 2015 (O&M)

Date of Decision: 30.09.2015

Shamsher Son @ Shera @ Shamsher Singh

.. Petitioner

Vs.

State of Punjab

.. Respondent

CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY

**Present:- Mr. Gaurav Sharma, Advocate-Legal Aid Counsel
for the petitioner.**

Mr. K.S. Aulakh, AAG Punjab.

ANITA CHAUDHRY, J.

A case was registered under Sections 399 and 402 IPC and under Section 25 of Arms Act at Police Station Mehta bearing FIR No. 123 of 2012, on the allegations that they were planning to commit dacoity and were armed with deadly weapons. A raid was conducted by the police. Three accused, namely, Randhir Singh @ Dhira, Rashpal Singh @ Tinku and present appellant were apprehended at the spot, while two managed to escape and their names lateron were revealed as Balraj Singh and Gurmukh Singh. A country made pistol and two live cartridges were recovered from co-accused Randhir Singh @ Dhira and site plan of house of Partap Singh Sarpanch of village Mehmoodpur Khurd was

recovered from the appellant.

On completion of formalities of investigation, challan was presented in the Court. Accused Randhir Singh and Rachhpal Singh were declared proclaimed offender.

Appellant Shamsheer Singh and his co-accused Gurmukh Singh and Balraj Singh were charge-sheeted under Sections 399 and 402 IPC, to which they pleaded guilty and did not claim trial. The trial Court held them guilty under Sections 399 and 402 IPC and sentenced them to undergo rigorous imprisonment for two years and pay a fine of Rs.2000/- under each head. In default of payment of fine, further rigorous imprisonment for fifteen days was awarded. Both the sentences were ordered to run concurrently.

Dis-satisfied with the quantum of punishment awarded to the appellant, he has filed the instant appeal.

I have heard learned counsel for the parties and have gone through the paper-book carefully.

Learned counsel for the appellant while making submissions on the quantum of sentence, has urged that the punishment awarded to the appellant is on higher side and the trial Court has wrongly turned down their prayer for probation.

Learned State counsel has submitted that the

punishment had been awarded to the appellant while taking into consideration the gravity of the offence and he deserves no leniency.

As per custody certificate placed on record he had undergone eleven months of custody and four more cases under different Acts are registered against him, in which he is on bail in two cases under Scheduled Castes & Scheduled Tribes Act and Arms Act, in the case registered under the NDPS Act he was acquitted while he has completed the sentence awarded in a case registered under Section 420 IPC. Taking into consideration his antecedents, the trial Court had rightly rejected his prayer for probation.

The matter is of the year 2012. As per prosecution case, only a site plan of house was recovered from the possession of appellant. He was not found in possession of any weapon. He along with his co-accused were arrested while planning to commit dacoity. It is not the case where any crime was executed or any criminal force was used. A plea of clemency had been raised and the accused did not press for trial.

For the reasons above, the conviction of the appellant is maintained. However, keeping the circumstances into view, the sentence awarded to the appellant is reduced to the period of one year under

Sections 399 and 402 IPC. Sentence of fine is maintained.

With the above modification, the instant appeal stands disposed of.

September 30, 2015
Jiten

(ANITA CHAUDHRY)
JUDGE