

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

(I) CRA-S-4200-SB of 2015 (O&M)

Date of decision: 23.12.2015

Vinod

...Appellant

Versus

U.T. of Chandigarh

...Respondent

(II) CRA-S-4888-SB of 2015 (O&M)

Date of decision: 23.12.2015

Ravi @ Ravi Kumar

...Appellant

Versus

U.T. of Chandigarh

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: None for the appellant in
CRA-S-4200-SB-2015

Mr. H.S. Aujla, Advocate,
for the appellant in CRA-S-4888-SB-2015.

Mr. Rajiv Sharma, APP, for U.T. Chandigarh.

Jitendra Chauhan, J.

The above mentioned two criminal appeals are being
disposed of by this single judgment/order of mine, having arisen out
of the common impugned judgment dated 14.09.2015, passed by the

learned Additional Sessions Judge, Chandigarh, whereby, the accused have been convicted and sentenced as under:-

Ravi	Section 394 IPC	To undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs.2000/-, or in default of payment of fine, to further undergo rigorous imprisonment for a period of two months
Vinod	Section 394 IPC	To undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs.2000/-, or in default of payment of fine, to further undergo rigorous imprisonment for a period of two months
	Section 411 IPC	To undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days
	Section 413 IPC	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 30 days

The prosecution case against the accused-appellants, in brief, is that on 20.07.2013, they along with other accused persons, stopped the complainant on the way, gave him a stick blow and snatched his mobile phone and wallet containing two ATM cards and PAN card.

Upon arrest of the accused persons and completion of investigation, challan against them was presented before the learned trial Court. Vide order dated 03.10.2013, accused Sonu @ Bhaiya was declared juvenile by the trial Court.

On committal, the accused were charged under Sections 394, 411 and 413 of the Indian Penal Code (for short, 'the IPC'), to which they pleaded not guilty and claimed trial.

In support of its case, the prosecution examined Deepak Joshi, complainant as PW1; SI Gurmeet Singh, the first Investigating

Officer as PW2; HC Dr. Dinesh Kumar, EMO, GMCH, Sector 32, Chandigarh as PW3; SI Krishan Kumar, the second Investigating Officer as PW4, Dr. Shourabh, Senior Resident, General Surgery, GMCH, Sector 32, Chandigarh, as PW5, HC Kanwar Pal Singh as PW6, and Constable Azad Singh as PW7, whereas, PWs HC Gurjan, HC Kanwar Pal, MHC P.S. Sector 31, SI Mewa Singh, Inspector Kirpal Singh and Constable Yogesh, were given up as unnecessary.

The statements of the accused under Section 313 Cr.P.C., were recorded. They pleaded innocence and alleged false implication. However, they did not lead any evidence in defence.

After hearing the Public Prosecutor for the State as well as the counsel for the accused, and after going through the evidence, on record, the trial Court convicted and sentenced the accused/appellants, as noticed at the outset.

Feeling aggrieved against the judgment of conviction and the order of sentence passed by the learned trial Court, the instant appeals have been filed by the accused/appellants. The sentence of accused/appellant, Vinod, was suspended on 30.09.2015, whereas, accused-appellant Ravi @ Ravi Kumar is in custody.

The learned counsel for accused-appellant Ravi does not press the present appeal on merits and has submitted that the appellant was a young man, aged about 20 years, at the time of the alleged occurrence. As regards the case of accused-appellant,

Vinod, he had already undergone about 02 months and 14 days out of the substantive sentence of 2 years, at the time of filing of application for suspension of sentence on 28.09.2015, which was allowed by this Court on 30.09.2015. Accused-appellant Ravi @ Ravi Kumar has already undergone the sentence in the other cases. As per the custody certificate, Annexure A-1, in the present case, he has already undergone 01 year, 01 month and 01 day, as on 15.10.2015, out of substantive sentence of 02 years. Thus, the learned counsel prays that a lenient view may be taken as regards the quantum of sentence imposed by the trial Court.

On the other hand, the learned State counsel opposed the prayer of appellant/accused and supported the judgment of conviction and order of sentence passed by the trial Court.

I have heard the arguments of the learned counsel for the parties and have carefully gone through the record of the case.

The prosecution case is fully proved by the statements of the prosecution. There is no flaw in the judgment of conviction. Thus, the present appeal as regards the judgment of conviction is concerned, is dismissed. Now, this Court would deal with the quantum of sentence.

Accused-appellant Vinod is stated to be a poor person and the only earning member of the family. No previous conviction is either alleged or proved against him.

Accused-appellant Ravi is stated to a poor person as well as the sole bread winner of his family. At the time of the occurrence, he was a young man of 20 years. Although, the custody certificate reflects that he has been involved in other FIRs of the similar nature as well, however, he has undergone the entire sentence in all those cases.

The appellants have suffered agony of criminal trial. Accused-appellants come from the lowest income groups of the society and are the sole bread winners of their families. Keeping in view the fact that in case, the appellants are sent to judicial custody at this stage, their families would starve and would be exposed to unhealthy surrounding of slum areas, the sentence of imprisonment awarded to both the accused-appellants is hereby ordered to be reduced to the period already undergone.

Ordered accordingly.

However, the sentence of fine is enhanced by Rs.25,000/- (qua accused-appellant Ravi) and Rs.10,000/- (qua accused-appellant Vinod), to be paid within two months from the date of receipt of certified copy of the order. Accused-appellant Ravi @ Ravi Kumar is stated to be in custody. He be released forthwith, if not required in any other case. Accused-appellant Vinod is stated to be on bail. His bail bonds shall stand discharged.

It is made clear that if the enhanced amount of fine is not

paid within the stipulated period, the present appeals shall be deemed to have been dismissed, without any notice.

23.12.2015

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(JITENDRA CHAUHAN)
JUDGE