

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

CRA No.S-4232-SB of 2014

Date of decision: 19.05.2015

Davinder Singh

..... Appellant

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

1. Whether Reporters of the local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Gaurav Sharma, Advocate for the appellant.

Mr. Jashanpreet Singh, Assistant Advocate General for
respondent-State of Punjab.

DARSHAN SINGH, J.

The present appeal has been preferred against the judgment of conviction dated 21.02.2014, passed by learned Sessions Judge, Faridkot, vide which the appellant along with his co-accused was held guilty and convicted for the offences punishable under Sections 120-B, 411 and 468 of the Indian Penal Code, 1860 (hereinafter called 'IPC') and the order on the quantum of sentence of the even dated, vide which the

appellant has been sentenced to undergo rigorous imprisonment for a period of nine months and to pay a fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days, for the offence punishable under Section 120-B IPC. He was further ordered to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.2000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month, for the offence punishable under Section 411 IPC. He was further sentenced to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.4000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of two months, for the offence punishable under Section 468 IPC.

2- The brief facts giving rise to this prosecution are that on 29.03.2011, SI/SHO Gursewak Singh, Police Station, Sadiq, Distt. Faridkot was present along with his companion police officials at Sadiq Chowk in connection with patrolling and checking of the anti-social elements. He received the secret information against present appellant and his co-accused Balwinder Singh alias Bhau, Iqbal Singh alias Laddi, Nishan Singh alias Raju, Satnam Singh alias Bhalwan and Satvir alias Kala that they had stolen two trollas loaded with tiles from Sadiq, one ten-tyred truck from Sangria (Rajasthan), Indigo car from Himachal Pradesh and about various other incidents committed by them in Punjab and outside. He also received the secret information that they will assemble armed with weapons like guns, revolvers, stolen cars by

affixing fake number plates in an abandoned factory in the area of village Kauni at Sadiq - Gurharsahai Road, at about 8:00 P.M. and will make a plan to commit dacoity in the shop of a goldsmith. Treating the said information to be reliable, SI Gursewak Singh sent the ruqqa to the Police Station. On the basis of which, the formal FIR was registered under Sections 399, 402, 412, 413, 420 and 120-B IPC and 25 Arms Act.

3- The Investigating Officer formed the raiding party and raided the disclosed place. In front of the abandoned factory, two cars and one truck were spotted. Some persons were sitting therein and on seeing the police party, they tried to flee away. The police party headed by Gursewak Singh intercepted Balwinder Singh alias Bhau, Satvir Singh alias Kala and Nishan Singh alias Raju. He recovered the Kirpan from the possession of Balwinder Singh, iron rod from the possession of Satvir Singh alias Kala and another iron rod from the possession of Nishan Singh alias Raju. Appellant Davinder Singh and Satnam Singh were also apprehended by the other police party headed by ASI Harjinder Singh. One 32 bore country-made revolver along with eight live cartridges were recovered from the possession of the present appellant. Co-accused Iqbal Singh managed to escape from the spot. The stolen vehicles one Indigo car, one Maruti car and one ten-tyred truck were also recovered from the spot having the fake number plates. Co-accused Iqbal was arrested on 24.4.2011. One pistol of 32 bore along with six live cartridges were recovered from his possession, for which the separate proceedings were taken up. On completion of the investigation, the report under Section

173 of Code of Criminal Procedure, 1973 (here-in-after called 'Cr.P.C.') was presented in the Court.

4- The appellant and his co-accused were charge-sheeted for the offences punishable under Sections 399, 402, 420, 412, 413, 465, 467, 468 and 120-B IPC, to which the appellant and his co-accused pleaded not guilty and claimed trial.

5- It is pertinent to mention that co-accused Iqbal alias Bala alias Laddi alias Sharanjit, Nishan Singh alias Chhanna alias Raju and Satnam Singh alias Bhalwan were declared as proclaimed offenders.

6- In order to substantiate its case, prosecution examined as many as ten witnesses.

7- When examined under Section 313 Cr.P.C., the accused pleaded that they were picked up from their respective houses and a false case has been planted upon them.

8- In the defence evidence, they examined three defence witnesses.

9- On appreciating the evidence on record and contentions raised by learned counsel for the parties, the learned trial Court held guilty and convicted the appellant along with his co-accused Balwinder Singh alias Bhau and Satvir Singh alias Kala for the offences punishable under Sections 120-B, 411 and 468 IPC and was sentenced to undergo the imprisonment as detailed in the upper part of the judgment.

10- Aggrieved with the aforesaid judgment of conviction and order of sentence, the present appeal has been preferred.

11- I have heard Mr. Gaurav Sharma, Advocate, learned counsel for the appellant and Mr. Jashanpreet Singh, learned Assistant Advocate General for the respondent-State of Punjab and have meticulously examined the record of the case.

12- Learned counsel for the appellant has pleaded that he does not challenge the conviction of the appellants recorded by the learned trial Court. He has only assailed the order on the quantum of sentence. He contended that the appellant is a poor person. He is in custody for the last about two and half years, which is quite sufficient sentence for the offences for which he was convicted. Thus, he pleaded that the appellant deserves reduction in the sentences to that of already undergone by him.

13- On the other hand, learned State counsel pleaded that the appellant was a previous convict. He was involved in various other cases, which is evident from his custody certificate. So, the sentence awarded by the learned trial Court is just and appropriate and he does not deserve any leniency in the matter of sentence.

14- I have duly considered the aforesaid contentions.

15- Learned counsel for the appellant has not challenged the conviction of the appellant recorded by the learned trial Court. The present appeal is only being pursued on the quantum of sentence. Learned counsel for the appellant has also pleaded that in Criminal Appeal No.S-3135-SB of 2014, co-convict Balwinder Singh alias Bhau has been granted the benefit of reduction in sentence.

16- As per the custody certificate of the appellant, brought on record, the appellant has already undergone two years and six months of imprisonment as on today. In Criminal Appeal No.S-3135-SB of 2014, co-convict Balwinder Singh alias Bhau was sentenced to the imprisonment already undergone when he had completed about three years and six months sentence, so on the principle of parity, the present appellant also deserves the similar concession as granted to co-convict Balwinder Singh alias Bhau in the matter of sentence.

17- Thus, keeping in view my aforesaid discussion, while maintaining the judgment on conviction as passed by the learned trial Court, I modify the order on quantum of sentence and reduce the substantive sentence awarded to the appellant for the offence punishable under Section 468 IPC to the rigorous imprisonment for a period of three years and six months. The remaining sentences as well as the sentence regarding fine and default clause shall remain intact.

18- With the above said modification in the order on quantum of sentence, the present appeal fails and is hereby dismissed.

Dated: 19.05.2015.
sunil yadav

(DARSHAN SINGH)
JUDGE