

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

Crl. Appeal S-2150-SB of 2003
Date of Decision : February 11, 2015

Jagat Pal

.....Appellant

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Ashwani Bakshi, Advocate

Mr. Randhir Singh, Addl. A.G. Haryana

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

The appellant has filed the present appeal for challenging the judgment and order dated 30.8.2003/1.9.2003 passed by the Additional Sessions Judge, Sirsa whereby he was convicted under Section 307 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for a period of six years and to pay a fine of Rs. 5,000/- and in default of payment of fine, to undergo further rigorous imprisonment for a period of two years.

The appellant, alongwith Sanjay, was booked as an accused in FIR No. 263 dated 7.12.2001 registered at Police Station Sadar, Sirsa under Sections 307, 326, 324 read with Section 34 IPC and Section 25 of the Arms Act on the allegations

that on 6.12.2001 at about 6.00 p.m., both of them had attacked complainant-Puran Chand and caused injuries to him. At that time, the appellant was armed with a sword whereas Sanjay was carrying a kappa. It was Sanjay, who was attributed causing of injuries on the head, back and hand of Puran Chand whereas the appellant was said to have caused injuries on the left hand, knee and right heel of aforementioned Puran Chand. When Puran Chand was medico-legally examined by Dr. G.S.Somani on 6.12.2001, he was found to have suffered twelve injuries. All the twelve injuries were opined to be collectively dangerous to life. However, out of them only two injuries i.e. injuries No. 1 and 2 which were attributed to Sanjay were declared grievous in nature.

It may not be out of place to mention here that Sanjay, co-accused of the appellant, was a juvenile on the date of the occurrence and, accordingly, the enquiry against him was entrusted to the Juvenile Justice Board, Hisar and vide order dated 6.2.2006 the said enquiry culminated in aforementioned Sanjay being acquitted of the charge against him.

Learned counsel for the appellant submits that he does not challenge the conviction of the appellant, as recorded by the trial Court. However, he submits that the appellant is facing the agony of criminal prosecution for the last more than thirteen years. He is not a previous convict. He was about twenty years of age on

the date of the occurrence. He is the only earning member of his family. It is also submitted that out of the sentence of six years imposed upon him, the appellant has already undergone an actual sentence of more than one year and seven months. Prayer has, accordingly, been made for remitting the remaining sentence of imprisonment imposed upon the appellant.

Learned State counsel has opposed the prayer made on behalf of the appellant by submitting that the appellant had taken active part in the commission of the crime and caused numerous injuries to complainant-Puran Chand and, further, the injuries caused by the appellant and his co-accused were found to be collectively dangerous to life.

From a perusal of the record, it is made out that the appellant remained in jail as an under trial for a period of fifty one days i.e. from 11.12.2001 to 31.1.2002. He was again taken into custody on 30.8.2003 and was, thereafter, granted the concession of suspension of sentence by this Court vide order dated 10.2.2005. Therefore, in all, the appellant has undergone a sentence of about one year and seven months.

Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose would be served by sending the appellant behind the bars once again to undergo the remaining sentence of imprisonment

imposed upon him. Ends of justice would be amply met if the substantive sentence of imprisonment of the appellant is reduced to the one already undergone by him.

Resultantly, the conviction of the appellant under Section 307 read with Section 34 IPC is maintained. His substantive sentence of imprisonment is reduced from six years to the one already undergone by him. The amount of fine of Rs.5,000/- imposed by the trial Court is, however, enhanced to Rs.20,000/- and in default thereof, the appellant shall undergo rigorous imprisonment for a period of two years. The enhanced amount of fine, when realized, be paid to Puran Chand-complainant, as compensation.

The appeal is, accordingly, disposed of.

**(T.P.S. MANN)
JUDGE**

February 11, 2015
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