

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No. S-2095-SB of 2003
Date of Decision : July 29, 2015

Pritam Singh

.....Appellant

VERSUS

State of Punjab

.....Respondent

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

Present : Mr. Amaninder Preet, Advocate as amicus curiae
for the appellant.

Mr. Vikram Bishnoi, Assistant Advocate General, Punjab

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

Appellant Pritam Singh, alongwith five others, was tried for committing the offence punishable under Section 396 IPC on the allegations that while committing dacoity, they also murdered Baljit Singh. Vide judgment and order dated 13/15.9.2003, the Sessions Judge, Ferozepur acquitted Jagir Singh and Jaswant Singh of the charges against them. The appellant, alongwith Jagga Singh, Hardev Singh and Bagicha Singh, was convicted under Section 394 IPC. While Jagga Singh was sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months, appellant Pritam Singh, Bagicha Singh and Hardev Singh were sentenced to undergo rigorous imprisonment for a period of seven years and to pay a

fine of Rs.300/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months. The period of detention already undergone by them was ordered to be set off against the sentence of imprisonment imposed upon them.

The case of the prosecution, in nutshell, is that on 30.11.1990 at about 8.30 p.m., complainant Lalu Ram, who used to work as a Siri with Baljit Singh, since deceased, was tethering cattle in the farm house while Baljit Singh was inside his house. The shutter of the house was closed. Four persons, aged about 25/26 years having medium height and wearing kurtas and Pyjamas came there. Three of them had wrapped themselves with blankets while the fourth with a loi. All of them were having beard and hair. One of them was armed with .12 bore gun, two with pistols and one had a weapon like plastic stain. Out of them one caught hold of the complainant and asked as to how many persons lived inside the house. He also directed him to open the shutter. When the complainant refused to do so, one of the assailants grappled with him and threw him on the ground. The person carrying the gun kept standing at a distance. An alarm was raised by the complainant which attracted Baljit Singh, who separated him from the assailants. Two assailants then started grappling with Baljit Singh, while one held the complainant and kept him at some distance. When Baljit Singh was having a scuffle with the assailants, the person carrying the gun fired at him but it hit the upper portion of the wall above the shutter. One more shot was fired which hit

Baljit Singh on the left side of his chest. As a result Baljit Singh fell down on the ground. The complainant became afraid and ran from the farm house towards village Churiwala Dhanna. While Baljit Singh was lying fallen, his wife Chhinder Pal Kaur had also reached the spot. Later on, the complainant and Chhinder Pal Kaur took Baljit Singh in an injured condition to the Civil Hospital, Abohar. The complainant then made statement Ex.PD before ASI Daljit Singh, on the basis of which FIR No.239 dated 1.12.1990 was registered at Police Station Khuian Sarwar. Later on, Baljit Singh succumbed to the injuries and, accordingly, offence under Section 396 IPC was added to the heading of the FIR.

Having heard learned counsel for the parties and on going through the evidence, this Court finds that the prosecution had been successful in establishing the guilt of the appellant under Section 394 IPC. Both PW3 Lalu Ram and PW4 Chhinderpal Kaur have stated unequivocally that the appellant, alongwith others, had come to the house of deceased Baljit Singh and while committing dacoity caused injuries to said Baljit Singh, who succumbed to those injuries later on. Under these circumstances, no case is made out for any interference in the impugned judgment of conviction passed by the trial Court.

As regards the quantum of sentence of imprisonment, suffice it to say that the appellant had undergone an actual period of one year, eleven months and twenty four days before he was

released on bail pursuant to the order passed by this Court on 3.9.2004. Apart from the same, the appellant had earned remission of two years, one month and fourteen days. The appellant has, thus, completed a period of four years, one month and eight days. These facts are recorded in the custody certificate produced by the learned State counsel.

Apart from the above, it may be stated that the appellant has been facing the agony of criminal prosecution for the last about twenty five years. When the appellant was examined by the trial Court under Section 235 Cr.P.C., he had claimed that he was a poor person and having small children who were dependent upon him. The appellant is not shown to be involved in any other case. Under Section 394 IPC the convict can be punished with imprisonment for life or with rigorous imprisonment for a term which may extend to ten years and shall also be liable to fine. Thus, there is no requirement of any minimum sentence of imprisonment which can be imposed upon person convicted for committing the offence under Section 394 IPC. Taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the appellant behind the bars, once again, for undergoing the remaining sentence of imprisonment imposed upon him. Ends of justice would be amply met by reducing the substantive sentence of imprisonment of the appellant to the one already undergone by him.

Resultantly, the conviction of the appellant under Section 394 IPC is upheld. His substantive sentence of imprisonment is reduced from seven years to the one already undergone by him. The sentence of fine is, however, enhanced from Rs.300/- to Rs.5,000/- and in default of payment of fine, the appellant shall undergo rigorous imprisonment for one year.

The appeal is, accordingly, disposed of.

July 29, 2015
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(T.P.S. MANN)
JUDGE