

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Appeal No.S-1306-SB of 2003

Date of Decision : February 04, 2015

Suresh and others

.....Appellants

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Vimal Kumar Gupta, Advocate.

Mr. Munish Dev Sharma, Additional A.G., Haryana.

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

The appellants have filed the present appeal against the judgment and order dated 5/7.7.2003 passed by the Additional Sessions Judge, Yamunanagar at Jagadhri, whereby they were convicted and sentenced as follows :-

- (i) All the appellants under Section 148 IPC to undergo rigorous imprisonment for six months each;
- (ii) Karamvir-appellant under Section 307 IPC to undergo rigorous imprisonment for five years and to pay a fine of Rs.10,000/- and in default of payment of fine, to suffer rigorous imprisonment for one year, whereas the remaining appellants under Sections 307/149 IPC to undergo rigorous imprisonment for three years each.
- (iii) Harpal @ Pal appellant under Section 325 IPC to undergo rigorous imprisonment for two years and to pay a fine of Rs.5,000/-

and in default of payment of fine, to suffer rigorous imprisonment for six months, whereas the remaining appellants under Sections 325/149 IPC to undergo rigorous imprisonment for one year each;

- (iv) All the appellants under Sections 324/149 IPC to undergo rigorous imprisonment for nine months each; and
- (v) All the appellants under Sections 323/149 IPC to undergo rigorous imprisonment for six months each.

All the sentences of imprisonment were ordered to run concurrently.

The appellants, alongwith Garib Dass, Chaman Lal and Prem Chand were tried for aforementioned offences on the allegations that on 12.4.1999 at about 10.00 a.m., they had assaulted the complainant party and caused injuries to complainant Sewa Ram, Tahal Dass and Ram Kishan. Subsequently, the three injured were medically examined. Tahal Singh was found to have suffered two incised injuries and out of them, injury No.1 was, later on, declared to be dangerous to life. Sewa Ram was noticed to have suffered two injuries, i.e. pain and swelling on the right palm and pain on the left arm. Similarly, Ram Kishan was medico-legally examined and found to have suffered abrasion on the left elbow, complaint of pain and swelling on left arm and complaint of pain in the back. All those injuries were simply in nature. However, one of the injuries received by complainant Sewa Ram on his right hand and attributed to Harpal Singh @ Pal was declared grievous in nature.

Learned counsel for the appellants has not challenged the impugned judgment of conviction passed by the trial Court. However, he has submitted that the appellants are facing the agony of criminal prosecution for the last about 16 years. Out of the sentence of five years imposed upon him, appellant Karamvir has already undergone a period of about 4½ years, whereas out of the sentence of three years imposed upon appellants Suresh and Harpal @ Pal, they have undergone a period of about two months. It is further submitted that Ramesh, who is also sentenced to undergo imprisonment for three years, had remained in custody for few days during the trial of the case. However, said Ramesh was initially found innocent during the investigation of the case and was, later on, summoned under Section 319 Cr.P.C. as an additional accused. It is further submitted that all the appellants have large families to support. Therefore, their remaining sentences of imprisonment be set aside.

Learned State counsel has vehemently opposed the prayer made on behalf of the appellants by submitting that all the appellants had taken active part in the commission of the crime. One of the injuries found on the left ear of injured Tahal Dass was dangerous to life. Merely because the appellants are facing the agony of criminal prosecution for the last about 16 years is not sufficient to remit their remaining sentences of imprisonment.

Learned State counsel has, however, produced the custody certificates, as per which, Karamvir appellant has

undergone an actual sentence of 4 years, 5 months and 5 days, Suresh appellant has undergone 1 month and 18 days, Harpal @ Pal appellant has undergone 1 month and 6 days, while Ramesh appellant has undergone three days.

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 appellants back to jail, once again, so as to undergo their remaining sentences of imprisonment. Ends of justice would be amply met if their sentences of imprisonment are reduced to the one already undergone by them.

Resultantly, the conviction of the appellants, as recorded by the trial Court, is maintained. However, their substantive sentences of imprisonment are reduced to the one already undergone by them. The sentences of fine, alongwith their default clauses, are maintained.

The appeal is, accordingly, disposed of.

February 4, 2015
satish

(T.P.S. MANN)
JUDGE