

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S No.1991-SB of 2003 (O&M)
Date of Decision: 28.08.2015

Nazar Singh

--Appellant

Versus

State of Punjab

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Ms. Rakhi Sharma, Advocate for the appellant.

Mr. P.S. Grewal, D.A.G., Punjab.

TEJINDER SINGH DHINDSA, J.

CRM No.5733 of 2015

Application is allowed as prayed for.

Copy of compromise dated 10.4.2014 (Annexure A-1) is taken
on record.

Main Appeal

The instant appeal is directed against the judgement of conviction and order of sentence dated 21.10.2003, passed by the learned Additional Sessions Judge, Sangrur in terms of which the appellant stands convicted for offence under section 436 of I.P.C and has been sentenced to undergo R.I for a period of 4 years and to pay a fine of Rs.10,000/- and in default of payment thereof to undergo further R.I for a period of six months.

2. The process of law was set in motion on the basis of a complaint having been lodged by Bawa Singh son of Hari Singh, resident of Village Bhalwan alleging that on the night of 11.6.2001 at about 2 A.M he had gone out of his house to answer the call of nature and he noticed that accused/appellant herein Nazar Singh was setting certain wooden logs on fire. It was alleged that such wooden logs had been stored outside his house

and an electric bulb had been installed at the motor room and it was glowing and in the light of such bulb he had seen and recognized Nazar Singh. Further allegation was that the logs had been set afire by pouring kerosene oil upon them. Apart from the wooden logs having been completely damaged, one window on the verandah of the house of the complainant had also got burnt. Motive was attributed that even on a previous occasion Nazar Singh had damaged the poplar trees belonging to the complainant but such matter had been compromised before the Panchayat and the accused Nazar Singh had been nursing a grudge ever since. Based on the complaint, F.I.R No.177 dated 16.6.2001 under section 436 I.P.C was registered at Police Station, Dhuri.

3. Statements of the witnesses were recorded under Section 161 Cr.P.C. After completion of investigation challan was presented before the competent court. Since offence under section 436 I.P.C had been cited, the case was committed to the Court of Sessions.

4. Prosecution, to prove commission of the offence examined PW-1 Karnail Singh, PW-2 Bawa Singh, PW-3 Gurdial Singh, PW-4 Mohinder Singh, PW-5 ASI Surinder Pal Singh, PW-6 ASI Gurbhajan Singh and closed its evidence on 24.1.2003. The entire incriminating material was put to the accused under section 313 Cr.P.C. Nazar Singh, accused pleaded innocence and stated that he had been falsely implicated. In defence, accused examined DW-1 Gurcharan Singh, DW-2 Pirthi Singh, DW-3 Bahadur Singh, DW-4 Ajaib Singh and DW-5 Harjeet Singh Pannu, S.P. (D). Upon appreciating the evidence adduced on record and after having heard arguments addressed on both sides, appellant Nazar Singh stands convicted and sentenced as has been noticed herein above.

5. Learned counsel appearing for the appellant has made a categorical submission that the conviction is not being assailed on merits and the scope of the instant appeal is being confined only as regards quantum of sentence.

6. It may be noticed that vide order dated 19.2.2004, passed by this Court, sentence of the appellant had been suspended and recovery of fine was also stayed.

7. Having heard learned counsel for the parties at length, this Court is of the considered view that the judgement of conviction does not suffer from any infirmity and has been passed on due appreciation of evidence and by recording valid and cogent reasons. Conviction of the appellant, as such, is maintained.

8. However, there are valid circumstances brought to the notice of this Court which would warrant interference qua the sentence imposed.

9. It has gone uncontroverted that on account of the incident even a suit for recovery of Rs.1 lac as damages had been instituted against the present appellant. The Trial Court had passed a decree for recovery of Rs.50,000/- along with interest @ 6% per annum. Nazar Singh had preferred an appeal and which came to be partly allowed vide judgement dated 2.2.2009, passed by the learned Additional District Judge, Sangrur and the judgement and decree of the Trial Court was modified and the decretal amount was reduced to Rs.25,000/- as damages along with interest @ 6% per annum from the date of filing of the suit till realization of the amount.

10. It has gone uncontroverted that complainant Bawa Singh having expired a number of years back, an amount of Rs.38,000/- already

stands paid by the present appellant Nazar Singh to the legal heirs of deceased Bawa Singh towards satisfaction of the decree.

11. That apart, it may be noticed that the incident relates back to the year 2001. Even a compromise has been placed on record at Annexure A-1 in terms of which the appellant as also the legal heirs of deceased Bawa Singh i.e. complainant have taken a conscious decision to continue with their lives in peace and harmony. As per custody certificate furnished by learned State counsel appellant had already undergone a total sentence period of 4 months and 17 days till the time his sentence had been suspended by this Court. Appellant is not stated to be involved in any other criminal proceedings. He has not even misused the concession of bail that had been granted to him.

12. For the reasons recorded above, the present appeal is disposed of while maintaining the conviction of the appellant and reducing the period of sentence to the period already undergone. Bail bonds furnished by the appellant shall stand discharged. It is clarified that the benefit of this order shall enure to the appellant only upon deposit of an amount of Rs.10,000/- as fine before the Trial Court.

13. Appeal is, accordingly, disposed of.

(Tejinder Singh Dhindsa)
Judge

28.08.2015
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