

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

**Crl. Revision No.428 of 2007 (O&M)
Date of decision : 20.01.2015**

Shangara Singh

...Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Imran, Advocate,
for Mr. D.S. Pheruman, Advocate,
for the petitioner.

Mr. Gurvir Sidhu, AAG, Punjab.

RITU BAHRI, J.

Challenge in this petition is to the judgment dated 21.02.2007 passed by the Addl. Sessions Judge, Amritsar, whereby he has dismissed the appeal preferred by accused-Shangara Singh (petitioner herein) against the judgment of conviction and order of sentence dated 10.10.2003 passed by the Sub Divisional Judicial Magistrate, Amritsar.

The trial Court, vide judgment dated 10.10.2003, convicted accused-petitioner Shangara Singh under Sections 452 and 382 read with Section 511 IPC and sentenced him as under:-

<i>Offence</i>	<i>Sentence</i>
U/S 452 IPC	Rigorous imprisonment for a period of one year and to pay a fine of Rs.200/-. In default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days.
U/S 382 read with Section 511 IPC	Rigorous imprisonment for a period of 1½ years and to pay a fine of Rs.300/-. In default of payment of fine, to further undergo rigorous imprisonment for a period of 15 days.

In brief, the facts of the present case are that on 23.02.1991, ASI

Baldev Krishan along with some other police officials was present at Noordi Adda, Tarn Taran. In the meantime, Joginder Singh-complainant accompanied by some other persons brought accused-Shangara Singh in an injured condition and handed over to the police. Thereafter, Joginder Singh-complainant made a statement that he was working as a *palledar* in the godowns of F.C.I. and his house was situated on the outskirts of Tarn Taran. On that day, when the complainant and his brother Jagir Singh were present in his house, two young persons, out of which one was having a pistol, entered his house by scaling over the boundary wall. They asked the complainant and his brother to raise their hands and hand over all the jewellery along with cash lying in the house, to them. However, Jagir Singh, brother of the complainant, overpowered one of them, whereas the other one had managed to escape by jumping over the wall. After hearing the noise, large number of people gathered there and gave beatings to the said person. Thereafter, he disclosed his name as Shangara Singh (accused) son of Tarlok Singh, resident of village Sabhra. He also disclosed the name of other person, who had run away from the spot, as Pappu resident of village Parowal. In this background, the FIR was registered and investigation was started. During investigation, Pappu could not be arrested and he was declared as proclaimed offender. On completion of investigation, challan against Shangara Singh-accused (petitioner) was presented.

After presentation of challan, charges under Sections 452 and 382 read with Section 511 IPC were framed against the accused-petitioner, to which, he pleaded not guilty and claimed trial.

In order to prove its case against the accused-petitioner, prosecution examined Joginder Singh-complainant (PW-1), Jagir Singh (PW-

2), Gurbachan Singh (PW-3) and thereafter, the evidence of prosecution was closed by order.

Statement of accused-petitioner under Section 313 Cr.P.C. was recorded, wherein entire incriminating evidence was put to him. However, he denied the same and pleaded false implication.

The trial Court, after going through the entire evidence led by the prosecution, convicted and sentenced the accused-petitioner in the aforesaid terms. Appeal against the said judgment was dismissed by the Addl. Sessions Judge, Amritsar vide judgment dated 21.02.2007. Hence, this petition.

Both the Courts below have held that there was no allegation of previous enmity between the complainant and the accused. The complainant was residing in Mohalla Jassewala, Sachkhand Road, Tarn Taran, whereas accused-petitioner was resident of Sabhra, Police Station, Patti. Further, the accused-petitioner was apprehended on the spot while he was in the house of the complainant. He had entered the house of the complainant without his consent, therefore, he had committed criminal trespass. Co-accused of the petitioner, who was subsequently declared as proclaimed offender, was armed with a pistol and they had intention to cause harm to the complainant and his brother. They made the complainant and his brother to raise their hands at pistol point and hand over the golden ornaments and cash to them, thereby, they had made an attempt to commit robbery. Both the Courts below had accepted the deposition of Joginder Singh (PW-1) and Jagir Singh (PW-2) and convicted the accused-petitioner under the aforesaid sections.

After going through the impugned judgments, no illegality, much less irregularity, has been found therein warranting interference by this

Court.

Accordingly, the present petition is dismissed. However, a lenient view can be taken on the quantum of sentence. The petitioner was released on bail vide order dated 29.05.2007 and thereafter, has not misused the consession of bail. As per custody certificates, the petitioner has undergone 4 months and 14 days in custody and is not involved any other criminal trial. The present FIR was registered on 23.02.1991 and the petitioner has been facing the agony of a protracted criminal trial for the last more than 24 years. In these circumstances, the sentence of imprisonment awarded to the petitioner is reduced to the period already undergone. However, amount of fine is enhanced from Rs.500/- to Rs.5000/-, which shall be deposited by the petitioner before the trial Court.

With the above modification/direction, the present petition stands disposed of.

(RITU BAHRI)
JUDGE

20.01.2015
ajp