

In the High Court of Punjab and Haryana at Chandigarh

1. Criminal Writ Petition No. 816 of 2014
Date of Decision: 07.01.2015

Manoj @ Pannu

.....Petitioner

Versus

State of Haryana and another

.....Respondents

2. Crl. Appeal No. S-51-SB of 2007

Manoj @ Pannu

.....Appellant

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Akshay Bhan, Senior Advocate with
Mr. Chirag Kundu, Advocate
for the petitioner.
(In CRWP No. 816 of 2014).

Mr. Chirag Kundu, Advocate
for the appellant.
(In CRA-S-51-SB of 2007)

Ms. Dimple Jain, AAG, Haryana.

SABINA, J.

Vide this order, above mentioned Criminal Appeal as well as Criminal Writ Petition would be disposed of.

Learned senior counsel for the petitioner has submitted that petitioner/appellant was held to be a juvenile vide order dated 4.5.2009 passed in Criminal Miscellaneous No. 34524 of 2008 in Criminal Appeal No. 51-SB of 2007. Learned senior counsel has

further submitted that petitioner has faced the trial in FIR No. 136 dated 10.8.2005 under Section 307, 120-B, 34, 216, 109 of the Indian Penal Code, 1860 ('IPC' for short) and Section 25 of the Arms Act, 1959 ('Act' for short), registered at Police Station Civil Lines Bhiwani. Trial Court had ordered the conviction and sentence of the petitioner under Section 307 IPC and Section 25/27 of the Act vide judgment/order dated 20.4.2007/23.4.2007. It was further ordered that the sentences imposed on the petitioner shall not run concurrently as he was a previous convict. The said judgment/order passed by the Trial Court were upheld by this Court in Criminal Appeal No. 1357-SB of 2007. The Apex Court in Criminal Appeal No. 2063 of 2013 (arising out of SLP (Criminal) No. 7707 of 2013) vide order dated 9.12.2003 partly allowed the appeal and modified the order of sentence to the extent that the sentences qua imprisonment shall run concurrently. Learned senior counsel for the petitioner has further submitted that since this Court vide order dated 4.5.2009 has held the petitioner to be a juvenile at the time of commission of offence, the sentence qua imprisonment of the petitioner was liable to run concurrently in FIR No. 193 dated 12.10.2004 under Section 147, 148, 307 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani with sentence awarded in FIR No. 136 dated 10.8.2005 under Section 307, 120-B, 34, 216, 109 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani.

Learned State counsel, on the other hand, has opposed the submissions made by the learned senior counsel for the petitioner.

In Criminal Appeal No. 51-SB of 2007, following order

was passed on 4.5.2009:-

“Crl. Misc. No. 34524 of 2008

This application has been moved by Manoj under Section 482 of Cr.P.C. for determining the fact that at the time of commission of the offence, he was a juvenile. Vide order dated 24.2.2009 passed in Criminal Misc. No. 34524 of 2008 in Crl. Appeal No. 51-SB of 2007 (O&M) titled as 'Manoj v State of Haryana', the trial Court was directed to hold an inquiry with regards to the age of the applicant-Manoj at the time of commission of the offence. Vide report bearing No. 679 dated 9.4.2009, the learned Additional Sessions Judge (Fast Track Court), Bhiwani has held that the age of the applicant-Manoj at the time of the commission of the offence in FIR No. 193 dated 12.10.2004 was 17 years 6 months and 12 days.

This application is disposed of in terms of this report.

Crl. Misc. No. 37077 of 2008

This application has been moved by Manoj under Section 389 of Cr.P.C. seeking suspension of his sentence in Crl. Appeal No. 51-SB of 2007.

I have heard the learned counsel for the parties, besides perusing the record with due care and circumspection. Vide order dated 24.2.2009 passed by this Court in Crl. Misc. No. 34524 of 2008, the trial Court was directed to hold inquiry in relation to the age of the applicant-Manoj.

Vide report bearing No. 679 dated 9.4.2009, the

learned Additional Sessions Judge (Fast Track Court), Bhiwani has held that the age of the applicant-Manoj at the time of the commission of the offence in FIR NO. 193 dated 12.10.2004 was 17 years 6 months and 12 days. This fact shall be taken into consideration at the time of deciding Criminal Appeal No. 51-SB of 2007.

In view of the fact, the sentence of the applicant-petitioner shall remain suspended during pendency of the appeal. Bail to the satisfaction of Chief Judicial Magistrate, Bhiwani.”

Thus, petitioner Manoj was held to be juvenile at the time of occurrence in FIR No. 193 dated 12.10.2004 under Section 147, 148, 307 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani. In FIR No. 136 dated 10.8.2005 under Section 307, 120-B, 34, 216, 109 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani, petitioner was ordered to undergo rigorous imprisonment for ten years. Since in FIR No. 193 dated 12.10.2004 under Section 147, 148, 307 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani, this Court vide order dated 4.5.2009 has held the petitioner to be a juvenile, it would be just and expedient that sentence qua imprisonment of the petitioner in FIR No. 193 dated 12.10.2004 under Section 147, 148, 307 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani is ordered to run concurrently with the sentence awarded in FIR No. 136 dated 10.8.2005 under Section 307, 120-B, 34, 216, 109 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani.

Accordingly, Criminal Writ Petition No. 816 of 2014 is

allowed. It is ordered that sentence qua imprisonment of the petitioner in FIR No. 193 dated 12.10.2004 under Section 147, 148, 307 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani shall run concurrently with the sentence awarded in FIR No. 136 dated 10.8.2005 under Section 307, 120-B, 34, 216, 109 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani.

Since the sentence qua imprisonment in Criminal Appeal No. S-51-SB of 2007 (arising out of FIR No. 193 dated 12.10.2004 under Section 147, 148, 307 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani) has been ordered to run concurrently with the sentence awarded in FIR No. 136 dated 10.8.2005 under Section 307, 120-B, 34, 216, 109 IPC and Section 25 of the Act, registered at Police Station Civil Lines Bhiwani, learned counsel for the appellant has not pressed the Criminal Appeal No. S-51-SB of 2007.

Accordingly, Criminal Appeal No. S-51-SB of 2007 is dismissed as not pressed.

(SABINA)
JUDGE

January 07, 2015
Gurpreet