

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

Crl. Appeal S-1551-SB of 2004
Date of Decision : September 29, 2016

Surender	VERSUS	Appellant
State of Haryana		Respondent

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

Present : Mr. Ashit Malik, Advocate
for the appellant.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

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

This appeal has been filed by convict-Surender for challenging the judgment and order dated 12.7.2004 passed by learned Additional Sessions Judge, Panipat, whereby he stood convicted under Section 307 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.10,000/- and in default of payment of fine, to further undergo rigorous imprisonment for one year. Besides, he was convicted under Section 353 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for one year. All the substantive sentences were ordered to run concurrently.

The appeal came to be admitted on 12.8.2004. Subsequently, vide order dated 20.9.2004, this Court suspended the sentence of imprisonment of the appellant.

When the appeal came up for final hearing before this Court on 2.8.2016, learned counsel for the appellant informed the Court that as per his instructions, the appellant had since died. Accordingly, learned State counsel sought an adjournment for obtaining verification of the said fact. On the last date of hearing, learned State counsel produced the report of Sh. Kulbir Singh, Superintendent, District Jail Panipat, wherein, it was mentioned that the appellant was shot dead on 28.7.2009 and in this regard FIR No. 208 under Sections 302/34 IPC and Section 25 of the Arms Act stood registered at Police Station Baroda. The Court, however, directed the State counsel to make available the copy of the aforementioned FIR No. 208.

Learned State counsel has, once again, produced the report of the Superintendent of District Jail Panipat. Along with the same, the report of Gram Panchayat of village Jagsi Sura (Annexure R-1), Copy of FIR No. 208 dated 28.7.2009 (Annexure R-2), copy of death certificate of Bijender, co-convict of the appellant (Annexure R-3) as well as report of Gram Panchayat Siwah (Annexure R-4) have been appended.

After going through the report of the Jail Superintendent as well as documents appended thereto, this Court finds that the factum of Surrender appellant having died on 28.7.2009 stands duly verified.

Learned counsel for the appellant submits that he has not received any instructions from the near relatives of the appellant for pursuing the appeal and, therefore, the appeal may be disposed of as having abated.

Keeping in view the fact that the appellant has died and his near relatives have not sought leave to continue the appeal, this Court has no other option but to dispose of the appeal as having abated.

Ordered accordingly.

September 29, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No