

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

Criminal Appeal S-1623-SB of 2004

Date of Decision : September 9, 2016

Manjit Singh and another	Versus	Appellants
State of Punjab		 Respondent

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

Present : Mr. Goldy Jhakar, Advocate for
Mr. Harpreet Singh Brar, Advocate
for the appellants.

Mr. Vikram Bishnoi, Asstt. Advocate General, Punjab.

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

The appellants, namely, Manjit Singh and Baldev Singh were tried for committing offences punishable under Sections 120-B, 224/120-B and 328/120-B IPC. Vide judgment and order dated 8.7.2004, learned Additional Sessions Judge (Adhoc) Fast Track Court, Faridkot, convicted and sentenced them as under:-

(1) Manjit Singh

- (i) Convicted under Section 224 IPC and sentenced to undergo rigorous imprisonment for one year;
and
- (ii) Convicted under Section 328 read with Section

120-B IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- and in default of payment of fine, to undergo further rigorous imprisonment for two months.

(2) Baldev Singh

Convicted under Section 328 read with Section 120-B IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- and in default of payment of fine, to undergo further rigorous imprisonment for two months.

Both the sentences of imprisonment awarded to Manjit Singh appellant were ordered to run concurrently. The period of detention in respect of both of them during the trial/investigation of the case was ordered to be set off against their substantive sentences.

Aggrieved of their conviction and sentence, the appellants filed the aforementioned appeal, which was admitted on 21.8.2004. Subsequently, on 6.12.2004, this Court suspended their sentences of imprisonment during the pendency of the appeal.

The case of the prosecution, in nutshell, is that on 11.7.2000, Constable Jaswinder Singh along with Constable Gurjant

Singh and L.C. Vinod Kumar started from Police Lines, Muktsar for Central Jail, Ferozepur as they were to produce certain accused in the Court of Sh. B.R.Garg, Sub-Divisional Judicial Magistrate, Gidderbaha. All of them reached Ferozepur Central Jail and the custody of Manjit Singh, accused, Atma Singh and Gurmukh Singh was handed over to them for production in case FIR No. 36 of 1998 under Sections 323 and 324 IPC, Police Station Kot Bhai in the court at Gidderbaha. After producing the accused and others in the Court, all of them took food while sitting at a Dhaba in front of the Court. After the food was taken, Baldev Singh, accused, came there with kheer and all of them excepting Manjit Singh took that kheer. Constable Jaswinder Singh after taking the kheer started vomiting. Accordingly, he asked L.C. Vinod Kumar to take the accused and others to Central Jail, Ferozepur. All of them then boarded the bus for Malout whereas Constable Jaswinder Singh remained at Gidderbaha and went to take medicines from the doctor. Afterwards, he went to his own house. On the next morning, when he came on duty at Police Lines, Muktsar and inquired about his companion police officials, he came to know that Manjit Singh, accused, Atma Singh, Gurmukh Singh and other police officials had been served kheer on 11.7.2000 by Baldev Singh, accused, in which, some poisonous substance had been mixed. Further, accused Manjit Singh had not taken the kheer. As a result of taking the kheer, Atma Singh, Gurmukh Singh, L. C. Vinod Kumar and Constable Gurjant Singh became unconscious whereas accused

Manjit Singh escaped along with the warrants.

After hearing learned counsel for the parties and on going through the record, it is evident that the kheer in question, which contained some poisonous/stupefying substance was brought by accused Baldev Singh. The said kheer was eaten by the police officials as well as Atma Singh and Gurmukh Singh, however, Manjit Singh did not take it. When the police officials lost their senses, Manjit Singh fled away from the spot and while doing so carried the warrant also with him. The testimonies of PW1 Constable Jaswinder Singh and PW2 L.C.Vinod Kumar, when read together, are sufficient to prove the guilt of the two appellants, namely, Manjit Singh and Baldev Singh. PW7 Constable Gurjant Singh also supported their version and stated in an unequivocal terms that it was Baldev Singh, who had served kheer to the police officials and the accused, who were being taken to Ferozepur Jail for being confined there after their production in the Court at Gidderbaha. PW6 Dr. Varinderpal Singh testified that Constable Gurjant Singh had come to the hospital at Muktsar. PW5 Dr. S.P.Kataria, Pathologist, Civil Hospital, Ferozepur testified that on 11.7.2000, Gurmukh Singh was brought to the hospital at 9.30 p.m. and as per the history, he had taken kheer along with others and was feeling drowsy but was still conscious. He was diagnosed as a case of suspected poisoning. PW4 Dr. Pritam Singh also testified that L.C.Vinod Kumar was treated by him and it was a case of suspected

poisoning.

In view of the above, no case is made out for any interference in the conviction of the appellants, as recorded by the learned trial Court.

As regards the question of sentence is concerned, it may be noticed that both the appellants are facing the agony of criminal prosecution for the last more than sixteen years. When they were heard by the learned trial Court on the quantum of sentence, they had pleaded that they were poor persons and sole bread winners of their respective families. As per the custody certificates produced by the learned State counsel, Manjit Singh appellant has already undergone actual sentence of one year, eight months and seventeen days besides earning remission of one year and sixteen days. In all, he has served a sentence of two years, nine months and three days. Similarly, Baldev Singh appellant has undergone total sentence, including remission, of two years, seven months and seventeen days. Both of them are enjoying the concession of suspension of sentence since December, 2004. There is no allegation that in the *interregnum* anyone of them has misused the concession.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellants behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice shall be

suitably met, if their substantive sentences of imprisonment are reduced to the one already undergone by him. At the same time, the fine of Rs.1,000/- imposed upon each of them can be suitably enhanced.

Resultantly, the conviction of Manjit Singh appellant under Section 224 and Sections 328/120-B IPC and of Baldev Singh appellant under Section 328/120-B IPC is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. The fine of Rs.1,000/- imposed upon each of the two appellants for the offences under Sections 328/120-B IPC is, however, enhanced to Rs.10,000/-. The amount of fine be deposited by the appellants before the Chief Judicial Magistrate, Faridkot, within three months from today, failing which, they shall be required to undergo rigorous imprisonment for six months.

The appeal is, accordingly, disposed of.

September 9, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No