

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

CRA-S-3127-SB-2011

Date of decision: 01.02.2016

Lovely @ Ravinder and Another

..Appellants

Versus

State of Haryana

..Respondent

CORAM: HON'BLE MR. JUSTICE M. JEYAPPAUL

Present: Mr. B.K. Chaudhary, Advocate for
Mr. Pankaj Bali, Advocate for applicant-
appellant No. 1.

Mr. Aman Dhir, Advocate for the appellants.

Mr. Gaurav Jindal, Addl. Advocate General,
Haryana-State.

- 1. Whether Reporters of local papers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

M. JEYAPPAUL, J.(ORAL)

Accused Lovely @ Ravinder and accused Kamaluddin were convicted and sentenced by trial Court to undergo rigorous imprisonment for a period of seven years for the offence punishable under Section 398 IPC. Accused Lovely @ Ravinder was also convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of ₹ 1,000/-, in default of payment of fine, to further undergo rigorous imprisonment for a period of two months for the offence

punishable under Section 25 of Arms Act, 1959. Both of them have challenged the above conviction and sentence passed by the Trial Court.

It is the case of the prosecution that PW-6 Sub Inspector Sat Pal Singh received a secret information through an informer that these accused were committing robbery at augmentation canal at Ranwar Road. PW-7 EHC Ramesh Kumar wore civil dress as per the directions given by PW-6 Sub Inspector Sat Pal Singh. He proceeded on police motorcycle as instructed. As soon as he reached near Ranwar canal he applied brakes of the motorcycle on seeing the torch light. These accused made an attempt to rob him at pistol point. The police party headed by PW-6 apprehended both the accused at the spot. A country made pistol of .315 bore loaded with one live cartridge and a live cartridge in the pocket of his pants without any permit or licence was recovered from accused Lovely @ Ravinder. Same were taken into police possession. An Iron rod, rubber gloves and a torch light were taken into police possession. PW-6 sent a requisition to Police Station for registration of the case.

Heard the submissions made on either side.

PW-6 S.I. Sat Pal Singh and PW-7 Ramesh Kumar are the material witnesses in this case. They have categorically reported that these accused were found indulged in committing robbery on the passersby. They were caught red handed by the police party when they made an attempt to rob PW-7 EHC Ramesh Kumar as well.

The fact that both the accused were arrested at the spot along with the country made pistol, two live cartridges and an iron rod would go to show that the prosecution has come out with a natural version. Though PW-6 and PW-7 are found to be police officials, the sequence of narration made by them convinces the Court that they are natural witnesses. In other words there was no scope doubting their version. Therefore, I have no hesitation to hold that Lovely @ Ravinder has committed the offences punishable under Section 398 IPC and Section 25 of the Arms Act, 1959 and Kamaluddin has committed the offence punishable under Section 398 IPC.

As directed by this Court learned State counsel produced the custody certificate of the respective accused. Accused Kamaluddin has undergone actual sentence of 4 years 10 months and 5 days. He has undergone 5 years, 11 months including the remission he has earned. Accused Lovely @ Ravinder Kumar has completed actual sentence of 4 years, 8 months and 9 days. He has undergone 6 years and 19 months including the remission he has earned as on 31.01.2016.

Learned counsel appearing for the appellants submitted that considering the age of the appellants and the fact that they had already undergone major portion of the sentence, Court may consider reduction of sentence to the period already undergone by them.

Learned State counsel vehemently submitted that minimum sentence prescribed under Section 398 IPC is 7 years

rigorous imprisonment and, therefore, the question of reducing the sentence does not arise in this case. He also brought to the notice of this Court that accused Lovely @ Ravinder Kumar was convicted in three other criminal cases, though he was acquitted in one case. He is also facing another criminal case which is pending disposal. As regards Kamaluddin, it is his submission that yet another case faced by him ended in conviction but, of course, he had already undergone the sentence imposed in that case. Considering the criminal antecedents of these accused, it is his submission that the prayer for reduction in sentence may be rejected.

On a perusal of the charge sheet laid against these accused, I find that accused Lovely @ Ravinder Kumar was only 24 years and Kamaluddin just 20 years at the time when they had committed these offences. Learned counsel appearing for the appellants pointed out that there is every possibility for these accused, though they were involved in other criminal cases, to reform themselves, if they are given a chance.

Accused Lovely @ Ravinder Kumar has already undergone 6 years and 19 days including remission and accused Kamaluddin 5 years and 11 months including remission as on 31.1.2016. It is found that both the accused have already undergone major portion of the sentence. Though they were involved in other criminal cases, finding that they have already completed major portion of sentence and also with a view give them a chance to reform themselves and become responsible

citizens of the country, the conviction recorded by the Trial Court is confirmed but the sentence is reduced to the period already undergone by them, despite the mandatory prescription of sentence found incorporated under Section 398 of the Indian Penal Code, but the fine amount and the default sentence imposed on the accused Lovely @ Ravinder Kumar is maintained.

Both the accused are undergoing sentence as on today. Accused Kamaluddin be released, if his custody is not required in connection with any other case and accused Lovely @ Ravinder Kumar be released, if he pays the fine amount and in default of payment of fine he be released after he has undergone the default sentence, if his custody is not required in any other case.

The appeal is disposed of accordingly.

February 01, 2016

Poonam (II)

**(M. JEYAPPAUL)
JUDGE**