

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

**Criminal Appeal S-2061-SB of 2003
Date of Decision: March 2, 2016.**

Kuldip Singh and others	Versus	Appellants
State of Punjab		 Respondent

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

Present : Mr. D.S.Sandhu, Advocate
for appellants No. 1 and 2.

Ms. Gurleen Dhanoa, Advocate
for appellants No. 3 to 5.

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

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

The appellants have filed the present appeal for challenging the judgment and order dated 30.7.2003 passed by the learned Additional Sessions Judge (Fast Track Court) Kapurthala, whereby, they were convicted and sentenced as follows:-

(i) All the appellants were convicted under Section 411 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.1,000/- each and in default of payment of fine, to undergo further rigorous imprisonment for two months;

(ii) All the appellants were convicted under Section 402 IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for two months; and

(iii) Appellant Sukhjit Singh was also convicted under Section 25 of the Arms Act and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo rigorous imprisonment for two months.

All the sentences were ordered to run concurrently.

The period of detention already undergone by the appellants during inquiry, investigation and trial of the case was ordered to be set off against the sentences awarded to them.

The case of the prosecution, as noted by the trial Court in Para 2 of its judgment is as under:-

“That on 7.2.2000 the police party headed by S.I. Hardeep Singh Incharge Anti Gunda Staff, kapurthala alongwith ASI Mohan Lal, H.C. Gurvinder Singh and other police officials was on patrol duty in the area of main road Sheikhpur when he received a secret information to the effect that 7/8 persons who are with weapons are sitting in Truck No. PB 08-D-1919 near Shiv Mandir, Sheikhpur and are planning to commit dacoity in

the co-operative Bank, Sheikhpur and if raid is conducted they could be apprehended. Finding information reliable ruqa was sent to the police station for registration of the FIR. Subsequently, Chanan Singh son of Harnam Singh, an independent witness was joined in the raid party and the raid was conducted at the said place. The truck was surrounded by the police and 8 persons were apprehended from the truck. Their personal search was conducted and from accused Sukhjit Singh a .12 bore pistol was recovered while one live cartridge was recovered from his right pocket. Sketch of the pistol was prepared and it was taken into police possession vide separate recovery memo. Similarly .12 bore loaded pistol was recovered from accused Balwinder Singh while another live cartridge was recovered from the right pocket of his pant and after preparing the sketch of the pistol it was taken into police possession. From accused Kuldip Singh one stick was recovered while an iron rod was recovered from accused Charan Singh, one dang was recovered from accused Amarjit Singh which he was holding in his right hand and from the possession of accused Rachhpal Singh one Kirpan was recovered which he was carrying in his right hand. The same were taken into police possession vide separate recovery memos. The truck No. PB-08-D-1919 along with its R.C. was also taken into police

possession. The accused were arrested and during interrogation on the basis of disclosure statement by accused Rachhpal Singh he got recovered three wrist watches; one pair anklets, five gents suit and one camera which were taken into police possession. Similarly, on the basis of disclosure statement made by accused Lakhbir Singh one VCP, one Deck and Stereo were recovered. They were taken into police possession vide separate recovery memo. On the basis of disclosure statement given by accused Rachhpal Singh two VCR, one television, one room heater and one pair of anklets were recovered and taken into possession vide separate recovery memo. The accused were keeping these articles, which were stolen articles. The weapons were got tested mechanically and after getting the requisite sanction to prosecute the accused under the Arms Act from the District Magistrate, Kapurthala and on completion of investigation the Challan against the accused was presented in the Court of learned Chief Judicial Magistrate, Kapurthala.”

Learned counsel for the appellants have not challenged the impugned judgment of conviction. However, they have submitted that the appellants are facing the agony of criminal prosecution for the last more than sixteen years. All of them are poor persons and having large families to support. Out

of the sentence of imprisonment for five years, imposed upon them by the trial Court, they have already completed a period of two years. There is no material on the record to indicate that while being on bail during the pendency of the appeal, any one of the appellants has misused the concession. Prayer has, accordingly, been made for setting aside the remaining sentences of imprisonment of the appellants.

Learned State counsel has vehemently opposed the prayer by submitting that at the time of their apprehension, the appellants had assembled for committing dacoity. Besides they were found in possession of dishonestly received property stolen in the commission of the dacoity.

As per the custody certificates already brought on record by the learned State counsel, the appellants have undergone following period of sentences besides earning remissions:-

Kuldip Singh	Year	Month	Days
Actual Period Undergone	1	0	27
Earned Remission	1	0	24
Total Custody including remission	2	1	21
Lakhvir Singh			
Actual Period Undergone	1	0	14
Earned Remission	1	0	24
Total Custody including remission	2	1	8

Kashmir Singh	Year	Month	Days
Actual Period Undergone	0	11	2
Earned Remission	1	0	28
Total Custody including remission	2	0	0
Sukhjot Singh			
Actual Period Undergone	0	10	26
Earned Remission	1	0	28
Total Custody including remission	1	11	24
Amarjit Singh			
Actual Period Undergone	0	9	24
Earned Remission	1	0	28
Total Custody including remission	1	10	22

Having heard learned counsel for the parties and taking into consideration the totality of the circumstances, this Court is of the considered view that no useful purpose will be served by sending the appellants behind the bars, once again, so as to undergo their remaining sentences of imprisonment. Ends of justice would be amply met if their remaining sentences of imprisonment are set-aside.

Resultantly, the conviction of the appellants, as recorded by the trial Court, is upheld. However, their substantive sentences of imprisonment are reduced to the one already undergone by them. The sentences of fine along with their default

clauses are maintained.

The appeal is, accordingly, disposed of.

March 2, 2016
amit rana

(T.P.S. MANN)
JUDGE