

In the High Court of Punjab and Haryana at Chandigarh

CRA-S-2298-SB-2003 (O&M)

Date of decision: 29.01.2016.

Surjit Singh

..... Appellant

Vs.

State of Punjab

..... Respondent.

CORAM: HON'BLE MRS. JUSTICE RAJ RAHUL GARG

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?

Argued by: Mr. N.S.Minhas, Advocate
for the appellant.

Mr. Surjeet Singh Chaudhary, DAG, Punjab

RAJ RAHUL GARG.J.

This appeal is directed against the judgment dated 18.10.2003 rendered by learned Additional Sessions Judge (Fast Track Court), Kapurthala, whereby appellant-accused Surjit Singh was held guilty for committing offence punishable under Sections 436 and 427 of Indian Penal Code (for short 'IPC'). Vide order of sentence of even date, he was sentenced to undergo rigorous imprisonment for five years for committing offence punishable under Section 436 IPC. In default of payment of fine, to undergo RI for two months. He was also sentenced to undergo RI for one year for committing offence punishable under Section 427 IPC.

Brief facts of the case are like this; that Gurmit Kaur wife of Surjit Singh, made her statement Ex. PA to the police to the effect that she was married to Surjit Singh on 03.12.1978. She has two sons and a

daughter. Her elder son Ranjit Singh is in Italy. Younger to him was doing computer course. Her daughter after +2 is staying at home. Her husband namely Surjit Singh works in Dubai. Sometimes he goes to Dubai and has been visiting India very often. Since April, he was in India.

On 26.09.2002, at about 1:00 P.M., she was preparing meals in her house when her husband told her that she should leave the house as he wanted to burn it. Thereafter, he bolted the doors and tried to burn her clothes. She managed to escape from her husband, opened the door and had gone to her mother's sister's husband, namely, Kulwant Singh and raised alarm. When she returned home, she saw that her house was burning. Valuable articles of the house and car bearing No.CH-01K-9909 were burnt. Her husband had also gone inside the house and opened the gas cylinder. People with great difficulty removed the grills and only then could take out her husband. Fire Brigade was also called, who extinguished the fire. Property worth ₹3 lac were burnt. As per complainant, at an earlier occasion again as well her husband had torn the clothes, certificate, passport and important documents of her son and also broken the computer as well.

Complainant further reported that she became unconscious on seeing the condition of her house and also the loss caused by the fire. Complainant further stated that her husband is an addict person and under the influence of intoxication, he has done so. She further expressed danger to her life as well to the life of her children at the hands of accused. On this report, ASI Surinder Kumar, made endorsement Ex. PA/1 and sent *ruqa* to the police station for registration of the case, whereupon formal FIR Ex.PA/2 was recorded. Site plan of the spot was prepared as Ex. PB.

Photographs of the spot were obtained which are Ex. PW5/A to Ex. PW5/G. Statements of witnesses were recorded. Accused was arrested. After completion of necessary investigations, the challan against the accused were presented in the Court.

Finding a *prima-facie* case against the accused for committing offence punishable under Sections 436 and 427 IPC, accused was charge-sheeted to which he did not plead guilty but claimed trial. After taking entire prosecution evidence, the statement of accused under Section 313 Cr.P.C. was recorded wherein accused denied each prosecution allegation and pleaded his innocence and false implication.

After hearing both the counsel for the parties and appraising the entire material and evidence on record, the learned trial Court recorded the impugned judgment of conviction dated 18.10.2003 and order of sentence of even date, as set out in the earlier part of this judgment.

I have heard learned Shri N.S.Minhas, Advocate, counsel for the appellant and learned State counsel besides going through the record of this case.

Before starting arguments in the case, the learned counsel for the appellant-accused contended that the total sentence awarded to the appellant-accused is RI for 5 years and a fine of ₹5,000/- where as per custody certificate the appellant-accused has already undergone 4 years, 8 months and 10 days sentence. The appellant-accused is an old man above the age of 60 years and after this occurrence, there is no other incident of the like nature or any other crime committed by the accused against his wife or children. Accused has been living peacefully. In fact, he does not contest the finding of learned trial Court recorded on merits and would feel

satisfied if the period of his sentence is reduced to the one already undergone.

Learned State counsel also has no serious objection in reduction of sentence of the appellant-accused as it is almost near completion.

Keeping in view the above stated facts and circumstances of the case, particularly the age of the appellant-accused and the fact that after this incident, no other incident of the like nature or any crime against wife has been reported. Since, the appellant-accused has been living peacefully and has almost completed his sentence, therefore, I find no reason to decline the prayer of learned counsel for the appellant-accused regarding reduction of sentence.

For the reasons recorded above, while maintaining the judgment of conviction dated 18.10.2003 recorded by learned trial Court, the sentence of the appellant-accused is reduced to the one already undergone except the sentence of fine which is maintained.

Disposed of accordingly.

**(RAJ RAHULGARG)
JUDGE**

29.01.2016
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