

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

-:-
CRA-S-2171-SB of 2004 (O&M)
Date of Decision: 17.10.2016

Satyavan alias Sate & Anr. Appellants.

Vs.

State of Haryana Respondent

CORAM: HON'BLE MR.JUSTICE DR. SHEKHER DHAWAN

Present: - Mr. Om Pal Sharma, Advocate, for the appellants.

Mr. Munish Dev Sharma, AAG, Haryana.

SHEKHER DHAWAN, J.(ORAL)

Present appeal by appellants Satyavan alias Sate and Dharambir alias Chautala against judgment of conviction and order of sentence dated 19.07.2004 and 21.07.2004, respectively, whereby appellants alongwith co-accused have been convicted and sentenced as under:-

<i>Under Section</i>	<i>Sentence</i>	<i>In default</i>
399 IPC	To undergo Rigorous Imprisonment for a period of 6 years and to pay a fine of Rs.1000/-	To further undergo simple Imprisonment for a period of four months
402 IPC	To undergo Rigorous Imprisonment for a period of 4 years and to pay a fine of Rs.500/-	To further undergo simple Imprisonment for a period of three months
Section 25 of Arms Act	To undergo Rigorous Imprisonment for a period of 2 years and to pay a fine of Rs.400/-	To further undergo simple Imprisonment for a period of two months

2. Proceedings qua accused-appellant Dharambir alias Chautala have already been abated.

3. Facts relevant for the purpose of decision of present appeal; that on 20.07.2001 police party headed by SI Balbir Singh along with other

police officials apprehended Satyavan @ Sate who was having .315 bore loaded pistol along with a live cartridge along with remaining four co-accused when they were planning to commit dacoity at Oil Mill situated at Dadri-Kanina Road. Necessary investigation proceedings were completed. After completion of investigation challan was presented in the Court.

4. Learned trial Judge completed various proceedings of the trial including framing of charge against the accused, recording statements of prosecution witnesses, examination of accused-appellants under Section 313 of the Code of Criminal Procedure and after considering the prosecution and defence version, held the appellant-accused guilty and convicted and sentenced him along with co-accused and as such the present appeal before this Court.

5. Learned counsel for the appellant contended that he does not challenge the judgment of conviction of the appellant. However, learned counsel representing the appellant mainly contended that the appellant has already suffered much agony of law by facing protracted litigation of more than 15 years by now, and he has already undergone the actual sentence of over one year nine months, whereas proceedings qua Dharambir alias Chautala, co-accused, have already been abated on account of his death.

6. Learned State counsel while confirming the period of sentence undergone by appellant Satyavan alias Sate contended that against the awarded sentence of six years, appellant- Satyavan alias Sate has undergone only one year and nine months and there is no ground for reduction of sentence.

7. Having considered the submissions made by learned counsel

for appellant-Satyavan alias Sate and plea taken by learned State counsel and considering the fact that learned trial Judge has already recorded judgment of conviction on the basis of evidence available on file and defence version being plea of denial only. However, appellant-Satyavan alias Sate has already undergone the actual sentence of one year and nine months whereas proceedings against Dharambir alias Chautala, appellant No.2 have already been abated on account of death of co-accused. Though, there are allegation of recovery of weapon, but there is no overt act attributed to the appellant. The Court below has rightly appreciated the oral and documentary evidence and held the appellant-accused guilty and sentenced him for commission of offence under Sections 399, 402 IPC and Section 25 of Arms Act. The appeal qua judgment of conviction fails and is dismissed.

As regards to the order of sentence, out of the awarded sentence of 6 years RI, the appellant has already undergone more than 1 year and 9 months of actual sentence while remaining in custody during investigation and trial of this case and suffered much agony of protracted litigation. As such, the order of sentence is modified to the extent that the sentence awarded to the appellant-Satyavan alias Sate is reduced to the one already undergone by him while remaining in custody and he shall be released from custody, if not required in any other case.

Appeal stands partly allowed in above terms.

(SHEKHER DHAWAN)
JUDGE

October 17, 2016
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Whether speaking/reasoned - Yes/No
Whether reportable - Yes/No