

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

Criminal Appeal S-757-SB of 2003

Date of Decision: July 6, 2017

Jaswant Singh @ Jassa and others	Appellants
Versus	
State of Punjab	 Respondent

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

Present : Mr. Vivek Salathia, Advocate
for appellants Jaswant Singh @ Jassa and
Jaswant Singh @ Billa.

Mr. R. K. Arya, Advocate
appellant Gurmit Singh @ Mattu.

Proceedings already abated qua appellants
Balwinder Singh @ Binda and Jagbir Singh @ Jagga.

Mr. Jagmohan Ghumman, Deputy A.G., Punjab.

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

The appellants were tried for committing offences punishable under Sections 399, 402, 411 IPC and Section 25 of the Arms Act. Vide judgment and order dated 22/25.3.2003, learned Additional Sessions Judge (Adhoc), Fast Track Court, Gurdaspur convicted them under Section

402 IPC and sentenced them to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.300/- each and in default of payment of fine, to undergo further rigorous imprisonment for a period of two months. They were, however, acquitted of the remaining charges.

It may be worthwhile to mention here that during the pendency of the appeal, Balwinder Singh @ Binda and Jagbir Singh @ Jagga appellants expired and, accordingly, vide order dated 10.1.2017, this Court disposed of the appeal qua them as having abated.

Learned counsel for the surviving appellants have not challenged the impugned judgment of conviction passed by the learned trial Court. However, they have submitted that their clients are facing the agony of criminal prosecution for the last more than nineteen years. None of them is involved in any other case. They are poor persons and sole bread winners of their respective families. They were in the age group of 25/30 years at the trial of the case. Out of the sentence of three years imposed upon them, Jaswant Singh @ Jassa and Jaswant Singh @ Billa have already undergone an actual sentence of about three months whereas Gurmit Singh @ Mattu has undergone more than 1½ years. Prayer

has, accordingly, been made for taking a lenient view in the matter of sentence of imprisonment imposed upon the surviving appellants.

Learned State counsel has vehemently opposed the prayer made by learned counsel for the surviving appellants by submitting that the surviving appellants had committed a grave offence of assembling alongwith others for the purpose of committing dacoity and, therefore, the sentences of imprisonment imposed upon them are commensurate with the crime committed by them.

As per the custody certificates brought on record by the learned State counsel, both Jaswant Singh @ Jassa and Jaswant Singh @ Billa appellants have already undergone an actual sentence of two days and sixteen days each whereas Gurmit Singh @ Mattu has undergone one year, six months and fifteen days. None of the custody certificates indicate the involvement of the surviving appellants in any other criminal case.

Taking into consideration the totality of the circumstances, this Court is of the view that the appellants have already undergone sufficient sentence and, therefore, need not be required to undergo their remaining sentences.

Resultantly, the conviction of the appellants, namely, Jaswant Singh @ Jassa, Gurmit Singh @ Mattu and Jaswant Singh @ Billa under Section 402 IPC is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. The fine of Rs.300/- is, however, enhanced to Rs.2,000/-. The fine amount be deposited by the surviving appellants in the Court of learned Chief Judicial Magistrate, Gurdaspur, within three months from today, failing which, they shall be required to undergo rigorous imprisonment for a period of three months. The fine imposed upon the surviving appellants by the learned trial Court, if already deposited, shall be adjusted against the fine now being imposed by this Court.

The appeal is, accordingly, disposed of.

July 6, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No