

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

Criminal Appeal S-1569-SB of 2004

Date of Decision: August 25, 2017

Ratna @ Madla

.....Appellant

Versus

State of Haryana

..... Respondent

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

Present : Mr. Ramesh Hooda, Advocate
for the appellant.

Mr. Pramjeet Singh, Asstt. A.G., Haryana.

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

The appellant, namely, Ratna @ Madla alongwith six others was tried for committing offences punishable under Sections 395/397, 342/34 and 506 IPC. Vide judgment and order dated 30.4.2004/6.5.2004, learned trial Court convicted the appellant under Section 395 IPC and sentenced him to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo simple imprisonment for two months. He was also convicted under Section 342 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for six months. Both

the sentences of imprisonment were ordered to run concurrently. At the same time, he was acquitted of the charge under Section 506 read with Section 34 IPC whereas his three co-accused namely, Phoola, Surrender and Liyakat were acquitted of all the charges against them. The remaining three accused, namely, Naresh, Manu Rehman and Tirath did not appear during the trial and, accordingly, they were declared proclaimed offenders.

According to the prosecution on 12.10.1995, Vinod Kumar, complainant got recorded statement at Police Station Samalkha that he had been working as a driver with Ramesh Kumar, who owned truck bearing registration No. HRS-7635. On the previous night at about 12.30 a.m., after loading 121 bags of rice from Gupta Rice Mills, Gohana, he had left for Delhi. Since the cleaner of the vehicle was ill, he was not taken along. At about 1.30 a.m., when he had crossed village Patti Kalyana and was on the G.T. Road, a truck came from behind. The driver of that truck intercepted the truck of the complainant. In the meanwhile, 7/8 persons alighted from the other truck and came to him. He got down from his truck and those persons after catching hold of him, took him towards the eastern side of the G.T. Road in the fields. All of them started beatings him with lathies. His hands and legs were also tied. After some time, all the accused left taking his truck with them. He came to the G.T. Road and took ride on a cycle upto a hotel. From that hotel he left for Ganaur to

lodge the report. However, he was told that the occurrence had taken place between the jurisdiction of Samalkha Police Station and, accordingly, he reported the matter there.

Further, according to the prosecution, the appellant was arrested, who got recovered 56 bags of rice from his room at Delhi. Accused, namely, Tirath, Liyakat, Naresh and Phool Singh @ Phoola were also arrested, who also got recovered rice bags.

Learned counsel for the appellant has submitted that he does not challenge the impugned judgment of conviction passed by the learned trial Court. However, it is submitted that the appellant is a poor person and has three children to look-after. He is a first offender. He is facing the agony of criminal prosecution for the last about twenty two years. The rice bags said to have been taken by him have already been recovered. It is also submitted that the appellant had remained in custody as an under-trial for two months and nine days. He was, thereafter, taken into custody on 6.5.2004, when he was convicted by the trial Court and, was thereafter, admitted to bail on 7.3.2006. It is also submitted that pursuant to the order passed by this Court on 7.4.2017, the appellant was, once gain, taken into custody on 24.5.2017 and is behind the bars since then. He has, thus, undergone an actual custody period of about two years and four months. Prayer has, accordingly, been made for taking a lenient

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view in the matter of sentence of imprisonment of the appellant.

As per the custody certificate dated 16.8.2017 already brought on record by the learned State counsel, the appellant had undergone two years, ten months and eleven days out of sentence of seven years imposed upon him. The said period includes remission of six months and seventeen days earned by him. It is also stated therein that the appellant is neither involved nor convicted in any other case.

Taking into consideration the totality of the circumstances, this Court is of the view that the appellant has already suffered enough for committing the offences under Section 395 IPC and Section 342 read with Section 34 IPC. Ends of justice shall be suitably met, if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the appellant under Section 395 and also under Section 342 read with Section 34 IPC is upheld. His substantive sentences of imprisonment shall stand reduced to the one already undergone by him. The sentence of fine alongwith its default clause is maintained.

The appeal is, accordingly, disposed of.

August 25, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No