

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

Crl. Appeal S-1784-SB of 2004
Date of Decision : February 20, 2017

Som Dutt and others

.....Appellants

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Sagar Aggarwal, Advocate for
Mr. Ashit Malik, Advocate
for the appellants.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

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

The appellants, who are seven in number, alongwith six others were tried for committing the offences punishable under Sections 148, 307/149 IPC and Section 25 of the Arms Act. Vide judgment and order dated 27.8.2004, learned Additional Sessions Judge, Panipat convicted Shyam Lal-accused under Section 148 IPC and sentenced him to undergo rigorous imprisonment for one year and six months whereas the remaining twelve accused were convicted under Section 147 IPC and sentenced to undergo rigorous imprisonment for one year each. However, all of them were acquitted of the remaining charges.

Aggrieved of their conviction and sentence, the appellants filed the present appeal. Their co-convicts Jaivir @ Jaibir, Satbir, Bhagat Singh and Amrish filed Criminal Appeal S-1787-SB of 2004 whereas Rajbir preferred Criminal Appeal S-1829-SB of 2004. As all the appeals arise out of the same

incident, they are being disposed of by a common judgment.

According to the prosecution, complainant-Shiv Kumar alongwith one Ravi lodged a report with SI Rameshwar on 17.1.1998 stating therein that he was resident of village Hathwala. He and his family members had cultivated sugarcane crop in rectangle No. 68/27. Accused Maldev, Som Dutt and others had formed a gang of land grabbers and they wanted to grab his land as well. They had warned him on a number of occasions by asking him to deliver the possession of the same to them and in case he did not do so, he would have to face dire consequences. On that day, his family members alongwith some labourers and land owners, had gone to the land to harvest the sugarcane crop. Accused Som Dutt, Maldev and their companions started firing at them with an intention to commit their murder. At this, his family members ran away from the scene of occurrence. The accused were armed with guns and country-made pistols. All of them had fired at his family members and labourers with an intention to kill them. However, his family members had a providential escape.

The trial Court after going through the evidence and the record of the case and after accepting the presence of complainant-Shiv Kumar (PW1) and Naresh (PW2) at the spot, acquitted the accused of the charges under Section 307 read with Section 149 IPC as well as Section 25 of the Arms Act. However, they were convicted and sentenced under Sections 147 and 148 IPC, as mentioned above.

After hearing learned counsel for the parties and going through the record of the case, this Court finds that the prosecution has led cogent and convincing evidence to sustain the guilt of Shyam Lal-accused under Section 148 IPC and of all the remaining accused under Section 147 IPC. Merely because, the names of some of the accused were not mentioned in the initial part of the narration is no ground to disbelieve their participation in the crime when in the latter part of their narration, complainant-Shiv Kumar while lodging the FIR, had specifically named the remaining accused, who had joined hands with Som Dutt and Maldev in committing the crime. Resultantly, no case is made out for any interference in the conviction of all the thirteen appellants, as recorded by the learned trial Court.

The occurrence in question had taken place more than nineteen years back. According to the prosecution also, none from the complainant side had received any injury on account of firing of shots by the accused. All the appellants claimed themselves to be first offenders. From the custody certificates produced by the learned State counsel, it is made out that Jaivir @ Jaibir and Amrish have already undergone an actual period of one month and twenty eight days each, Satbir and Bhagat Singh have undergone twenty two days each whereas the remaining appellants have undergone actual sentence ranging from nine to twelve days. None of them is shown to be involved or convicted in any other case.

After hearing learned counsel for the parties and taking into consideration the totality of the circumstances, this Court is of the view that the appellants, who are enjoying the concession of bail for the last more than twelve years, need not be sent behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice shall be suitably met, if their substantive sentences of imprisonment are reduced to the one already undergone by them. At the same time, some fine can be imposed upon them.

Resultantly, the conviction of Shyam Lal under Section 148 IPC and of the remaining appellants under Section 147 IPC is upheld and their substantive sentences of imprisonment are reduced to the one already undergone by them. The appellants are also directed to pay an amount of Rs. 5,000/- each as fine, which shall be deposited by them in the Court of the learned Chief Judicial Magistrate, Panipat within three months from today, failing which they shall be required to undergo simple imprisonment for three months each.

All the appeals, i.e. CRA-S-1784-SB of 2004, CRA-S-1787-SB of 2004 and CRA-S-1829-SB of 2004, are, accordingly, disposed of.

February 20, 2017

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**(T.P.S. MANN)
JUDGE**

Whether speaking/reasoned.

: Yes/No

Whether Reportable.

: Yes/No