

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

**Criminal Appeal S-2086-SB of 2004
Date of Decision: May 19, 2017**

Ajay Kumar	Versus	Appellant
State of Haryana		 Respondent

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

Present : Mr. Manoj Chahal, Advocate
for the appellant.

Mr. Kapil Aggarwal, Addl. A.G., Haryana.

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

This appeal has been filed by accused-Ajay Kumar for challenging the judgment and order dated 22/24.9.2004 passed by the learned Additional Sessions Judge (Fast Track Court) Bhiwani, whereby, he was convicted under Section 392 IPC and sentenced to undergo imprisonment for a period of eight years and to pay a fine of Rs.1,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of four months.

According to the prosecution, on 7.3.1999, complainant-Virender Singh was going in his Maruti car bearing registration No. HR-10A-1055 from the side of village Bilawal and saw a person, who was not steady. In the meantime, from each side of the bridge, two boys came and made him to stop the car. One of the boys, who had a strong built pointed a revolver towards him whereas the four other boys were carrying weapons. All of them took him towards village Pichopa Kalan. On the way, they turned the car towards village Todi, where he was made to sit near a temple for about two hours by three boys. Afterwards, two boys came with the car and took him near village Barsana. They snatched a sum of Rs.2,000/- from him but after returning a 100/- rupee note to him, fled away from the spot with the car.

Learned counsel for the appellant has not challenged the impugned judgment to the extent of convicting the appellant under Section 392 IPC. However, he has submitted that the appellant is facing the agony of criminal prosecution for about 18 years. He is the only son of his parents and, thus, required to look-after the family. Out of the sentence of eight years imposed upon him, he has already undergone a period of about 4½ years. He is on bail pursuant to the order passed by this Court on 24.8.2007. Prayer has, accordingly, been made for taking a lenient view in the matter of his sentence of imprisonment.

Learned State counsel has opposed the prayer by submitting that the appellant was responsible for committing a grave offence of robbery and, therefore, the sentence of imprisonment awarded to him is commensurate with the crime committed by him. He has also produced the custody certificate, as per which, the appellant has undergone an actual period of four years, two months and eight days besides earning remission of six months. Therefore, the total sentence undergone including remission comes to four years, eight months and eight days. It has also been mentioned therein that apart from the present case, the appellant was involved in seven other criminal cases but in all of them, he stood acquitted. Further, in one case under Section 379 IPC, he was convicted and sentenced to the period already undergone by him. Besides, he was shown to be involved in one more case arising out of FIR No. 76 dated 21.2.1999 under Sections 457 and 380 IPC though on bail in the said case. Learned counsel for the appellant has submitted that as per his instructions, the appellant stands acquitted in the said criminal case.

Be that as it may, this Court is of the view that no useful purpose will be served by sending the appellant behind the bars, once again, for undergoing the remaining sentence of imprisonment. Ends of justice shall be suitably met, if his

substantive sentence of imprisonment is reduced to the one already undergone by him. At the same time, the fine amount of Rs.1,000/- can be enhanced.

Resultantly, the conviction of the appellant under Section 392 IPC is upheld. His substantive sentence of imprisonment is reduced to the one already undergone by him. The fine of Rs.1,000/- imposed upon him by the learned trial Court is enhanced to Rs.5,000/-. The fine amount be deposited by him in the Court of learned Chief Judicial Magistrate, Bhiwani, within a period of three months from today, failing which, he shall be required to undergo simple imprisonment for six months.

May 19, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No