

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

Crl. Appeal D-933-DB of 2011
Date of Decision : May 26, 2017

Shokat Ali

.....Appellant

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Deepanshu Matya, Advocate
for the appellant.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

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

The appellant was tried for committing the offences punishable under Sections 395 and 397 IPC. He was also tried for committing the offence under Section 25 of the Arms Act. Vide judgment and order dated 12.3.2011, learned Additional Sessions Judge, Rewari acquitted him of the charge under Section 25 of the Arms Act. However, he was convicted for the offences under Sections 395 and 397 IPC and sentenced as below:-

- i) Rigorous imprisonment for five years and to pay a fine of Rs.3,000/- under Section 395 IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months; and

- ii) Rigorous imprisonment for seven years and to pay a fine of Rs.5,000/- under Section 397 IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of one year.

The period of detention already undergone by the appellant during the enquiry, investigation or trial of the case was ordered to be set off against the term of imprisonment imposed upon him.

It may be worthwhile to mention here that while convicting and sentencing the appellant under Sections 395 and 397 IPC, learned trial Court did not make any mention as to the manner in which the substantive sentences of imprisonment imposed for the two offences would run. Therefore, in terms of the provisions of Section 31 of the Code of Criminal Procedure, both the sentences of imprisonment were to run consecutively. At the same time, while issuing the warrant of commitment, the learned trial Court clarified that both the substantive sentences of imprisonment would run concurrently. As such the appellant was required to undergo a total period of seven years in the present case and not twelve years in case the sentences were to run consecutively.

As per the custody certificate dated 18.9.2016, already brought on record by the learned State counsel, the

appellant stood released on expiry of sentence on 14.8.2016 in this case but detained in lieu of fine sentence and presently undergoing imprisonment for ten years in another case arising out of FIR No. 265/2010.

Learned counsel for the appellant states that as the appellant has already undergone the substantive sentence of imprisonment imposed upon him, the present appeal has been rendered infructuous.

Disposed of, accordingly.

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

May 26, 2017
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**(H.S.MADAAN)
JUDGE**

Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No