

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

Criminal Appeal S-651-SB of 2004

Date of Decision: May 24, 2017

Satbir	Versus	Appellant
State of Haryana		 Respondent

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

Present : Mr. Namit Sharma, Advocate
for the appellant.

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

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

Accused Satbir, Dharmender, Anil and Jeet Pal were tried for committing offences punishable under Section 395 read with Section 397 IPC. Accused Dharmender was also tried for committing offence under Section 25 of the Arms Act. Vide judgment and order dated 13.3.2004, learned Additional Sessions Judge, Panipat, acquitted all the four accused of the charge under Section 395 read with Section 397 IPC. However, Satbir and Dharmender were held guilty under Section 411 IPC and

sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.10,000/- each and in default of payment of fine, to undergo simple imprisonment for six months. Dharmender was also held guilty under Section 25 of the Arms Act and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.5,000/- and in default of payment of payment of fine, to undergo simple imprisonment for three months. Both the substantive sentences of imprisonment imposed upon Dharmender were ordered to run concurrently whereas the sentences in default of payment of fine, to run conjointly.

Aggrieved of his conviction and sentence, Satbir filed the present appeal, i.e. CRA S-651-SB of 2004 whereas Dharmender filed CRA S-770-SB of 2004. As both the appeals arise out of the same judgment of conviction and sentence, they are being decided together.

According to the prosecution, on 5.3.2003 at 8.30 p.m., complainant Satpal Singla and his son Sachin Singla were on their way to their house. They were riding motor-cycle bearing registration No. HR06G-1740 . After reaching Bal Vikas Chowk, they parked their motor-cycle as the complainant had to buy some articles from a nearby shop. His son Sachin Singla remained present near the motor-cycle. All of a sudden, the

electricity supply was disrupted. The complainant heard the cries of his son Sachin Singla and saw that three young men were present near him. One of those boys was giving fist blows to Sachin Singla whereas one boy had pointed the pistol at the head of Sachin Singla. All the three boys snatched the motor-cycle from Sachin Singla and fled away. The complainant could not identify them, it being dark at that time. However, he could notice that the three boys were wearing pants and shirts.

It is also the case of the prosecution that on the basis of the statement made by complainant- Satpal Singla, FIR No. 96 dated 6.3.2003 under Sections 395/397 IPC and Section 25 of the Arms Act was registered at the Police Station Model Town, Panipat. During the investigation and on receipt of information, a picket was set-up and the three boys were apprehended with the motor-cycle. One of them, i.e. Ajmer Singh was driving the motor-cycle whereas the other two, namely, Satbir and Dharmender were sitting on the pillion seat. The search of Dharmender led to recovery of a country made pistol from him.

Learned counsel for the appellants have not challenged the impugned judgment of conviction passed by the learned trial Court. However, they have submitted that the appellants are facing the agony of criminal prosecution for the last

more than fourteen years. At the time of the occurrence, Satbir-appellant was aged about 19 years and having aged parents. Further, he is a first offender. He has already undergone total sentence of about three months. It is also submitted that Dharmender-appellant was about 16 years and 8 months old at the time of the occurrence. He is a first offender. He has an old and aged mother to look after. He has already undergone total sentence of about 8 months. Prayer has, accordingly been made for taking a lenient view in the matter of their sentences of imprisonment.

Learned State counsel has opposed the prayer by submitting that the appellants had robbed Sachin Singla, the son of the complainant of his motor-cycle. At the time of the accident, Dharmender was also carrying a country made pistol, which he had pointed at the head of Sachin Singla. The motor-cycle belonging to the complainant, which was snatched by the accused was, thereafter, recovered from them.

It may be worthwhile to mention here that pursuant to the directions issued by this Court on 25.7.2016, learned Principal Magistrate, Juvenile Justice Board, Panipat after conducting an enquiry has held that Dharmender-appellant was 16 years, 8 months and 25 days old and, thus, a juvenile on the date of commission of the

offence.

As per the custody certificate produced by the learned State counsel, Dharmender has undergone total sentence including remission of seven months and twenty eight days whereas Satbir has undergone two months and nineteen days. While Satbir is not shown to be either involved or convicted in any other case, Dharmender was named as accused in FIR No.111 of 2003 under Section 379 IPC, Police Station Model Town, Panipat.

Taking into consideration the totality of the circumstances, this Court is of the view that appellants, namely, Satbir and Dharmender do not deserve to 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.

Resultantly, the conviction of both the appellants, namely, Satbir and Dharmender under Section 411 IPC and that of Dharmender appellant under Section 25 of the Arms Act is upheld. The substantive sentences of imprisonment imposed upon both the appellants are reduced to the one already undergone by them. The fine of Rs.5,000/- imposed upon Dharmender appellant for the offence under Section 25 of the

Arms Act alongwith its default clause is maintained. However, the fine of Rs.10,000/- imposed upon the appellants under Section 411 IPC is enhanced to Rs.20,000/- each. The entire amount of fine be deposited by them in the Court of the learned Chief Judicial Magistrate, Panipat, within three months from today, failing which, they shall undergo simple imprisonment for six months.

Criminal Appeal S-651-SB of 2004 filed by Satbir appellant and Criminal Appeal S-770-SB of 2004 filed by Dharmender appellant are, accordingly, disposed of.

May 24, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No