

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

Crl. A. No. 2216-SB of 2006

DATE OF DECISION : 23.09.2017

Tara Chand

.... APPELLANT

Versus

State of Haryana

.... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : None for the appellant.

Mr. Siddharth Sanwaria, DAG, Haryana.

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AVNEESH JHINGAN, J. (Oral)

Appellant had faced trial in FIR No. 107 dated 25.03.1998 registered at Police Station Samalkha, under Sections 459 and 380 IPC.

Learned Additional Sessions Judge, Panipat, vide judgment dated 28.09.2006 convicted the appellant for commission of offences punishable under Sections 395/397, 458 and 412 IPC. Vide order dated 03.10.2006, the appellant was sentenced as under :-

- (i) To undergo rigorous imprisonment for 10 years and to pay fine of ₹ 2,500/- for the offence under section 395 read with section 397 IPC. In default of payment of fine, to further undergo rigorous imprisonment for one year;
- (ii) to undergo rigorous imprisonment for 10 years and to pay fine of ₹ 2,500/- for the offence under section 458 IPC. In default of payment of fine, to further undergo rigorous imprisonment for one year; and

- (ii) to undergo rigorous imprisonment for 10 years and to pay fine of ₹ 2,500/- for the offence under section 412 IPC. In default of payment of fine, to further undergo rigorous imprisonment for one year.

All the sentences were ordered to run concurrently.

The brief facts of the prosecution case, as noted passed by learned trial court in the impugned judgment, are as under :-

“On 25.3.1998 Sub Inspector/Station House Officer Rattan Singh was present alongwith Head Constable Krishan, Head Constable Hukam Singh, and Constable Rohtash in Jeep No. HR-06C-9730 driven by Constable Satyawar outside the Police Station, Samalkha for going to Village Atta for investigation of case FIR No. 654 of 1997 under section 304-B read with section 34 of the Indian Penal Code, 1860 Police Station, Samalkha. Complainant Anil Tyagi met him and made statement to him alleging that he is running a ration shop in Delhi. They have constructed Laxmi Farm on Haldana Road near village Haldana. On the night intervening between 24.3.1998 and 25.3.1998, he alongwith his friends Pawan Kumar Mangal and Kamal Kishore Singal alongwith their family members came to their farm after taking dinner at Murthal and slept there. At about 2.10 A.M he heard the noise of breaking of glass on which he came down and found that glass of window of the room where the children were sleeping was broken and five young men armed with iron rod,

pipes and dandas had entered there who threatened that in case he moved forward he would be killed and thereafter they asked him, his friends and their wives to stand in a line and forcibly took away cash and valuable from them by terrorising them. Out of those persons one remained standing outside the room of the children. They took away amount of ₹ 2,200/- and one Titan watch from him, one pair of Kundal made of gold from his wife Neelam Tyagi, one chain made of gold, amount of ₹ 700/-, one wrist watch and one camera from Kamal Kishore Singal, one chain, eight bangles, one pair of Kundal and one ring made of gold and amount of ₹ 1,600/- from Manju Singal wife of Kamal Kishore Singal, one chain and ring made of gold, one wrist watch and amount of ₹ 2,000/- from Veena Mangal wife of Pawan Kumar Mangal. They also caused injuries to their servants Islam and Raju and took away ₹ 1,120/- from Islam and ₹ 2,000/- from Raju and they also took away cash and jewellery from Green Century Seeds Company and action be taken against them. On the basis of the statement, FIR No. 107 dated 25.3.1998 under sections 459 and 380 of the Indian Penal Code, 1860 was registered. The police investigated the case and during investigation arrested accused Tara Chand who made disclosure statement as to commission of the subject offences by him with his co-accused Jailor, Pappu and Gogi and got chain

made of gold belonging to PW Kamal Kishore Singal recovered from his possession in accordance with his disclosure statement. Accused Jailor and Gogi could not be arrested and were got declared proclaimed offenders.”

On completion of investigation, challan was filed against the appellant-accused.

Charge under Section 459 IPC was framed, to which the appellant-accused did not plead guilty and claimed trial. Thereafter, when the case was fixed for arguments, the prosecution filed an application for alteration of charge which was allowed vide order dated 18.08.2006 and charges under Sections 395, 397, 458, 459 and 412 IPC were framed against the appellant-accused, to which he did not plead guilty and claimed trial.

In support of its case, the prosecution examined Anil Tyagi as PW1, Neelam Tyagi as PW2, Pawan Kumar Mangal as PW3, Veena Mangal as PW4, Constable Rishi Pal as PW5, Kamal Kishore Singal as PW6, Manju Singal as PW7, Doctor A.L. Arora as PW8, Sub Inspector Dhoop Singh as PW9, EHC Satyawar Singh as PW10, Inspector Shamsar Singh as PW11, Assistant Sub Inspector Om Parkash as PW12, Ramesh Kumar as PW13 and Jagmohan Singh Record Keeper Sessions Court as PW14 and produced documents statement of Anil Tyagi Ex.PA, endorsements on the statement Ex.PA/1 and Ex.PA/3, FIR Ex.PA/2, disclosure statement Ex.PB, Recovery memo Ex.PC, MLR of Islam Ex.PD, MLR of Raju Ex.PE, disclosure statement Ex.PF, rough site plan Ex.PG, application for conducting medico

legal examination of accused Tara Chand Ex.PH, medico legal report of accused Tara Chand Ex.PH/1, disclosure statement Ex.P1, site plans Ex.PJ, Ex.PK and Ex.PL, disclosure statement Ex.PM and application for issuance of non-bailable warrants Ex.PN.

At close of the prosecution evidence, appellant-accused was examined under Section 313 Cr.P.C. They were confronted with the evidence of the prosecution. He denied correctness of the evidence and pleaded his innocence as well as false implication in the case.

No witness was examined in defence.

After appreciating the evidence on record, learned trial court vide impugned judgment and order convicted and sentenced the accused-appellant, as stated above.

Aggrieved against the said judgment and order, the present appeal has been filed.

No one has appeared on behalf of the appellant. Even a perusal of the grounds of appeal shows that there is no serious challenge to the conviction. No evidence was produced by the appellant during trial.

On the other hand, Mr. Siddharth Sanwaria, DAG, Haryana, argued that case of the prosecution has been duly proved by PWs. There is nothing on record to show that the appellant was falsely implicated in the case. Learned State argued that there is no merit in this appeal and it should be dismissed.

After hearing learned State counsel and going through the

evidence on record, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 28.09.2006 is upheld.

With regard to the sentence, learned State on instructions from Shri Rajesh Kumar, Jail Warden, District Jail, Karnal, states that the appellant has already undergone 10 years of imprisonment, as imposed by the trial court. In view of this fact, the appellant be set at liberty, if his custody is not required in any other case, subject to payment of fine, if already not paid.

The present appeal is, accordingly, dismissed.

September 23 2017
ndj

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

Yes