

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

Criminal Appeal S-640-SB of 2005

Date of Decision: July 6, 2017

Chhedi Lal and another	Versus	Appellants
State of Haryana		 Respondent

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

Present : Mr. Sanjay Jain, Advocate
as amicus curiae for the appellants.

Mr. Gaurav Bansal, Asstt. Advocate General, Haryana.

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

The appellants, namely, Chhedi Lal and Tulsi Parsad, were tried for committing offences punishable under Sections 328 and 379 IPC. Vide judgment and order dated 28.2.2005/2.3.2005, learned Additional Sessions Judge (Adhoc), Fast Track Court, Ambala convicted them under Section 328 IPC and sentenced them to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.5,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months.

They were, however, acquitted of the charge under Section 379 IPC. The period of detention already undergone by them during the inquiry, commitment and trial was ordered to be set off against substantive sentence.

Aggrieved of their conviction and sentence, the appellants filed the present appeal through jail, which was admitted on 17.5.2005 and Mr. Sanjay Jain, Advocate, was appointed as amicus curiae to plead the case of the appellants.

According to the prosecution, on 10.7.2004 Ram Dulare, complainant alongwith son Sarwan Kumar had come to Railway Station, Jagadhri as Sarwan Kumar was to go back to his native village in Faizabad district of Uttar Pradesh, after boarding "Kisaan Express". At about 11.50 P.M., they were sitting on a bench near the booking office. In the meantime, the appellants met them and enquired from them about their journey. Ram Dulare stated that his son was to go to Faizabad. The appellants stated that they were also going to Faizabad. One of them brought four cups of tea and offered it to the complainant and his son whereas the other offered biscuits to them after taking out of his bag. Sarwan Kumar refused to sip the tea and eat biscuits whereas Ram

Dulare had tea and also took biscuits and he became unconscious. On 11.7.2004, he regained consciousness and found himself lying admitted in railway hospital. His bag containing clothes and some articles was found missing. He suspected the involvement of the appellants of having administered some stupefying substance to them in the form of biscuits.

On the basis of the statement made by Ram Dulare on the aforementioned lines, FIR No. 156 dated 11.7.2004 under Sections 328 and 379 IPC was registered against the appellants at Police Station GRP, Ambala Cantt.

During the investigation of the case, the appellants were arrested and biscuits recovered from their possession, which were sent to Forensic Science Laboratory for examination. They also suffered disclosure statements and got recovered the stolen articles.

At the trial of the case, the prosecution examined SI Ajmer Singh as PW1, Lady Constable Kiran Bala as PW2, ASI Arun Kumar as PW3, Sarwan Kumar as PW4, complainant Ram Dulare as PW5, Dr. L. K. C. Sinha as PW6, Inspector Satpal as PW7 and ASI Rameshwar Dass as PW8.

When examined under Section 313 Cr.P.C., the

appellants denied all the allegations of the prosecution and pleaded that they were innocent. In their defence, they, however, did not examine any evidence.

Having heard learned counsel for the parties and on going through the record, this Court finds that complainant Ram Dulare while stepping into the witness box as PW5 had deposed about the prosecution case in entirety. He identified the appellants who, according to him, were the ones who made him unconscious by giving biscuits to them. His testimony is duly corroborated by his son Sarwan Kumar, who had appeared as PW4. The medical evidence by way of the testimony of PW6 Dr. L. K. C. Sinha further corroborated the prosecution case, as according to him, the complainant had been administered some poisonous substance.

In view of the above, no case is made out for any interference in the conviction of the appellants.

As regards the question of sentence, it may be noticed that Chhedi Lal appellant has already undergone a total sentence of two years and twenty two days out of the sentence of five years imposed upon him whereas Tulsi Parsad appellant has undergone one year, nine months and twenty two days. These facts are duly incorporated in the

custody certificates produced by the learned State counsel. Moreover, when the appellants were heard by the learned trial Court on the quantum of sentence, they had stated that they were having 5/6 children, widowed mothers and respective wives to look-after. They are facing the agony of criminal prosecution for about thirteen years.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the appellants behind the bars, once again, for undergoing their remaining sentences of imprisonment. Ends of justice shall be suitably met, if the same is reduced to the one already undergone by them.

Resultantly, the conviction of the appellants under Sections 328 IPC is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. The sentence of fine alongwith its default clause is maintained.

The appeal is, accordingly, disposed of.

July 6, 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No