

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CRA No. S-1852-SB of 2017 (O&M)
Date of Decision:7.10.2017

Davinder Singh @ NikkaAppellant

versus

State of PunjabRespondent

Coram: Hon'ble Mr. Justice Arvind Singh Sangwan

Present: Mr.F.S.Virk,Advocate for the applicant-appellant.
Mr.Amandeep Singh Gill, Senior Deputy Advocate
General, Punjab
**

Arvind Singh Sangwan, J.

Appellant was tried qua commission of offence punishable under Sections 436,427,429 read with Section 34 of the Indian Penal Code ('IPC' for short) and Section 11 of the Prevention of Cruelty to Animals Act, 1960 ('the Act' for short) in FIR No.181 dated 31.12.2015 registered at Police Station Pasiana, District Patiala. The trial Court vide judgment/order dated 26.4.2017 convicted the appellant under Sections 436,429,427,323 read with Section 34 IPC and Section 11 of the Act and sentenced as under:-

Sr.No	Offence	Imprisonment	Fine imposed	Imprisonment in default of payment of fine
1	U/s 436 IPC	R.I. 2 years	Rs.5000/-	SI for a period of one month
2	U/s 429 IPC	R.I 2 years	---	---
3	U/s 427 IPC	R.I six months	---	---
4	U/s 323 IPC	R.I. Six months	---	---
5	U/s 11 of the Prevention of Cruelty to the Animals Act, 1960	---	Rs.50/-	SI for two days

Hence, the present appeal.

As per version in the FIR, on 31.12.2015, accused-appellant-Davinder Singh @ Nikka set the thatched roof of the Shed on fire, at the instance of accused-Hans Lal, under the influence of liquor. Be that as it may, learned counsel for the appellant has not challenged the conviction of the appellant as ordered by the Trial Court but has submitted that the sentence qua imprisonment of the appellant be reduced to already undergone by him. Learned counsel for the appellant has submitted that the appellant is a poor unmarried labourer, having three brothers and two sisters, and his old age mother has undergone for operation of both the eyes and is dependent on him and his father is doing labour work. In support of his arguments, learned counsel has relied upon the judgment in **Mukesh vs. State of M.P.** 2015(1)RCR(Criminal) 251 where in Hon'ble the Supreme Court has reduced the sentence to already undergone.

A perusal of the custody certificate of the appellant, placed on record reveals that the appellant has undergone nine months and five days of actual sentence and is not involved in any other criminal case.

Keeping in view the submissions made by learned counsel for the appellant, it would be just and expedient to reduce the sentence qua imprisonment of the appellant to the period already undergone by him.

Accordingly, the conviction of the appellant under

Sections 436, 429, 427, 323 read with Section 34 IPC and Section 11 of the Act is maintained. However, keeping in view the fact the appellant is a poor labourer, his sentence qua fine of ₹5050/- be remitted towards compensation. Accordingly, the sentence qua the imprisonment of the appellant is reduced to already undergone by him. However, the appellant is directed to deposit a sum of ₹5000/- with the trial Court to be paid to the complainant as compensation. Appellant-accused, who is in custody, be set at liberty forthwith, if not required in any other case.

Appeal stands disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

October 07, 2017
arya

Whether speaking/reasoned: Yes
Whether Reportable: No