

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

Crl. Appeal No.S-2001-SB of 2017 (O&M)

Date of Decision: August 04, 2017

Satnam Singh alias Shama

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms.Simsi Dhir Malhotra, Advocate for
Mr.R.P.Dhir, Advocate
for the appellant.

Mr.Gaurav Garg Dhuriwala, Sr.DAG, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against State of Punjab, challenging the judgment of conviction and order of sentence dated 09.09.2013 passed by learned Addl. Sessions Judge, Kapurthala, whereby the appellant was held guilty and convicted under Sections 452 and 324 IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹3,000/- (under Section 452 IPC) and ₹5000/- (under Section 324 IPC) and in default of payment of fine, to undergo imprisonment for a period of one month under each Section. Both the sentences were ordered to run concurrently. However, co-accused were acquitted.

judgment passed by learned Addl. Sessions Judge, Kapurthala, are as under:-

“2. The brief facts are that the FIR in the present case was lodged at the statement of Sewa Ram son of Vijay Kumar , r/o Dayalpur, District Kapurthala on the allegations that on 26.03.2008 at 4.00 a.m. , he alongwith his brother Devi Lal and mother Balwinder Kaur were sleeping in their house. Their outer door gate was knocked by someone. He woke up and saw that the outer gate of their house was broken down and also broken down the door of the room , in which they were sleeping , by Satnam Singh alias Shama and his mother alongwith 15 unidentified persons and all of them entered their room and Shama alias Satnam Singh gave a sword blow with intention to kill, which hit upon his left elbow. The mother of Satnam Singh was also with him but he did not know her name. Another unknown person gave a sword blow, which hit upon his nose and left elbow. Shama gave another sword blow and another unknown person gave a sword blow, which hit upon his right cheek. Shama also gave a sword blow on the person of his brother Devi Lal, which hit upon his head. Satnam Singh also gave a sword blow 3 which hit upon the left side of his hip joint and also hit his father Vijay Kumar with kick blows. They raised alarm Maar Ditta Maar Ditta. They broken down their household articles and taken away Rs.50,000/- from their Almirah from the scene of occurrence. Accused were arrested. After completion of investigation, challan against the was presented in the Court.”

On presentation of challan against accused-appellant along with co-accused, copies of challan and other documents were supplied to them under Section 207 Cr.P.C. Finding prima facie case, the accused-appellant and co-accused were charge-sheeted under Sections 307, 452, 324, 323, 427 and 34 IPC, to which they pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW1 Vijay Kumar, injured, PW-2 Sewa Ram, complainant, PW-3 Devi Lal, PW-4 Balwinder Kaur, PW-5 Retd. Inspector Balkar Singh, PW-6 Head Constable Tilak Raj, PW-7 ASI Surinder Singh, PW-8 SI Balwinder Singh, Investigating Officer and PW-9 Dr.Kuldeep Singh.

At the close of prosecution evidence, the accused-appellant and co-accused were examined under Section 313 Cr.P.C. They were confronted with the evidence of the prosecution and they denied the correctness of the evidence and pleaded themselves as innocent. In defence, accused examined DW-1 Jeet Singh.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant and acquitted other co-accused, as stated above.

At the time of arguments, learned counsel for the appellant did not dispute the findings regarding conviction and only prayed for reduction of sentence of the appellant. Learned counsel for the appellant contended that the appellant only bread earner of the family and suffering from criminal proceedings since 2011. Learned counsel for the appellant next contended that appellant has already undergone 8 months and 6 days of actual sentence.

On the other hand, learned State counsel argued that case of the prosecution has been duly proved by the PWs. There is nothing on the record to show false implication of the accused in the present case. He next argued that PWs have consistently deposed regarding the recovery from the accused. Learned State counsel, therefore, argued that there being no merit, the present appeal should be dismissed.

I have heard learned counsel for the appellant as well as learned State counsel and have gone through the record.

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt.

Therefore, the judgment of conviction dated 09.09.2013 passed by learned

Addl. Sessions Judge, Kapurthala, is correct, as per law and does not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that appellant is stated to be only bread earner of the family and suffering from long protracted criminal proceedings since 2011 i.e. for the last about 6 years and further in view of the fact that appellant has already undergone actual sentence of 8 months and 6 days including remission of 8 days, the sentence imposed upon the appellant is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof, shall remain the same.

Accordingly, present criminal appeal stands partly allowed.

Appellant Satnam Singh alias Shama, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

August 04, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No