

In the High Court of Punjab and Haryana, at Chandigarh

1. Criminal Appeal No. S-2993-SB of 2014

Mohammad Hilal and Others

... Appellant(s)

Versus

State of Haryana

... Respondent(s)

2. Criminal Appeal No. S-3502-SB of 2014

Noor Islam Maulik and Others

... Appellant(s)

Versus

State of Haryana

... Respondent(s)

AND

3. Criminal Appeal No. S-4265-SB of 2016 (O&M)

Wazid Ali

... Appellant(s)

Versus

State of Haryana

... Respondent(s)

Date of Decision: 26.05.2017

CORAM: Hon'ble Mr. Justice (Dr.) Shekher Dhawan.

Present: Mr. Man Mohan, Advocate
for the appellants (In CRA-S-2993-SB-2014 and
CRA- S-4265-2016).

Mr. Gaurav Sharma, Advocate
for the appellants (In CRA-S-3502-SB-2014).

Mr. Vivek Saini, Deputy Advocate General, Haryana
for the respondent.

Shekher Dhawan, J.

Present three appeals i.e. CRA-S-2993-SB-2014, CRA-S-3502-SB-2014 and CRA-S-4265-2016 are directed against the common judgment of conviction and order of sentence dated 12.2.2014, passed by learned Additional Sessions Judge, Karnal. Therefore, those are being disposed of by this common judgment.

Facts relevant for the purpose of decision of these appeals that complainant Gur Lal Singh (PW.1), his mother Balvinder Kaur and aunt Prabhjeet Kaur were residing in House No. 755, Sector 6, Urban Estate, Karnal. At 10.30 PM, father of the complainant had gone to sleep. At 11 PM, the complainant was sleeping in his house along with other family members. The maid servant along with two children was sleeping on the first floor. At about 3 AM mid night, a number of persons entered their house and brought down Sushma and after confining them in a room, ransacked jewellery and cash. As per complainant, the accused persons were young boys and with muffled faces. They remained in the house till 5 AM and threatened the complainant and his family members not to inform the police. After the accused persons left the house, complainant reported the matter to the police.

During investigation, accused persons were arrested; their disclosure statements were recorded; recoveries were effected and challan was presented in the Court for trial. Learned trial Judge completed the proceedings and the trial including recording of statements of the prosecution witnesses, examination of accused under Section 313 Cr.P.C.

the accused/appellants guilty, convicted and sentenced them as under:-

<i>Under Section</i>	<i>Sentence awarded</i>	<i>Sentence in default of payment of fine</i>
455 IPC	<i>Rigorous imprisonment for a period of five years and fine of ₹ 1,000/- each.</i>	<i>To further undergo simple imprisonment for a period of six months each.</i>
456 IPC	<i>Rigorous imprisonment for a period of three years and fine of ₹ 1,000/- each.</i>	<i>To further undergo simple imprisonment for a period of six months each.</i>
457 IPC	<i>Rigorous imprisonment for a period of seven years and fine of ₹ 5,000/- each.</i>	<i>To further undergo simple imprisonment for a period of one year each.</i>
395 IPC	<i>Rigorous imprisonment for a period of seven years and fine of ₹ 5,000/- each.</i>	<i>To further undergo simple imprisonment for a period of one year each.</i>

Being aggrieved of passing of such judgment, three separate appeals were filed.

At the time of arguments, learned counsel representing the appellants contended that as the judgment of conviction has been recorded on the basis of statement of complainant Gur Lal Singh as PW.1 and eye witness and other police officials, they are not to challenge the judgment of conviction on merits, rather submitted that the accused/appellants have almost completed their respective sentence period while remaining in custody during the course of investigation and trial of the case. So, they be released from custody thereby reducing the period of sentence to the period already undergone by them while remaining in custody.

Learned counsel for the respondent-State contended that the appellants are habitual offender involved different similar cases and there is even no ground for taking a lenient view on the point of the sentence. So, the appeals be dismissed in toto.

Having considering the submissions made by learned counsel for the parties and perusal of the record, this Court is of the considered view that the prosecution version was set into motion as per statement of complainant Gur Lal Singh, who appeared as PW.1. His version was duly supported and corroborated by other eye witnesses and victims of the case, namely Harpreet Kaur (PW.2), Sushma, injured (PW.3), Dr. Sucha Singh (PW.4) and Assistant Sub Inspector Satbir Singh, Investigating Officer (PW.6). To the contrary, defence version is just a plea of denial. There was no reason for the trial Court to disbelieve the complainant and eye witnesses who were the victims and injured in this case. They had occasion and opportunity to identify the accused persons on the spot during investigation and thereafter during the course of trial in the Court and as such there is no dispute in the identification of the accused as well. The learned trial Judge has rightly held the accused/appellants guilty, convicted and sentenced them for commission of offences punishable under Sections 455, 456, 457 & 395 IPC. More so, learned counsel for the appellants are also not in a position to contest the judgment of conviction on any legal point or evidence being contrary. Resultantly, all the three appeals, filed against the judgment of conviction dated 12.2.2014, are without any merit and the same stand dismissed.

Having considered the submissions made by learned counsel for the appellants, on the point of sentence and taking into consideration the facts that the appellants have been awarded sentence i.e. rigorous imprisonment of seven years each and fine of ₹ 5,000/- each *inter alia* under

**Criminal Appeal No. S-2993-SB of 2014
Criminal Appeal No. S-3502-SB of 2014 And
Criminal Appeal No. S-4265-SB of 2016 (O&M)**

5

of sentence while remaining in custody. The Court is certainly inclined to take a little lenient view on the point of sentence. Accordingly, period of substantive sentence is reduced to six years rigorous imprisonment under Sections 395 & 457 IPC. However, the sentence awarded by the learned trial Judge for remaining sections shall remain intact with default stipulation.

Resultantly, all the three appeals are disposed of thereby accepting them partly in above terms. The accused/appellants be released from the custody in this case if they have completed the sentence awarded by the learned trial Court and as modified by this Court.

**(Shekher Dhawan)
Judge**

May 26, 2017
“DK”

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No