

**CRA-S-557-SB-2013;  
CRA-S-512-SB-2013;  
CRA-S-764-SB-2013; and  
CRA-S-989-SB-2013**

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

- (1)

CRA-S-557-SB-2013  
Date of decision:-13.12.2017

Satar

...Appellant
- Versus
- State of Haryana

...Respondent
- (2)

CRA-S-512-SB-2013

Narender Pal and another

...Appellants
- Versus
- State of Haryana

...Respondent
- (3)

CRA-S-764-SB-2013

Aarif

...Appellant
- Versus
- State of Haryana

...Respondent
- (4)

CRA-S-989-SB-2013

Jishan and another

...Appellants
- Versus
- State of Haryana

...Respondent

**CRA-S-557-SB-2013;  
CRA-S-512-SB-2013;  
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**CORAM : HON' BLE MR. JUSTICE H.S. MADAAN**

Present: Mr.Dhruv, Advocate for  
Mr.N.S. Shekhawat, Advocate  
in CRA-S-557-SB-2013.

Mr.Yashdeep Nain, Advocate  
for the appellants in CRA-S-512-SB-2013.

Mr.Ashit Malik, Advocate  
for the appellant in CRA-S-764-SB-2013.

Mr.M.K. Pundir, Advocate  
for appellant No.2 in CRA-S-989-SB-2013.

Mr.Gaurav Bansal, AAG, Haryana.

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**H.S. MADAAN, J.(ORAL)**

Vide this judgment, I propose to dispose of four appeals i.e. **CRA-S-557-SB-2013** filed by appellant Satar, **CRA-S-512-SB-2013** filed by appellants Narender Pal and Aalim, **CRA-S-764-SB-2013** filed by appellant Aarif and **CRA-S-989-SB-2013** filed by appellants Jishan and Ishtgar, all of them being accused, who were tried and convicted by the Court of learned Additional Sessions Judge, Kurukshetra vide judgment dated 25.1.2013 for the offence under Section 395 IPC and vide order dated 29.1.2013, they were sentenced to undergo rigorous imprisonment for five years and to pay a fine of ₹10,000/- each and in default thereof to further undergo simple imprisonment for six months each.

The accused-convicts, who are appellants before this Court pray that the appeals be accepted, the impugned judgment of their conviction and order of sentence be set aside and they be acquitted of

the charge framed against them.

It may be mentioned here that Jishan and Ishtgar had filed a combined appeal i.e. CRA-S-989-SB-2013, however, appeal filed by Jishan was disposed of vide detailed order dated 13.9.2017 passed by this Court whereby his conviction was upheld whereas as regards sentence part, he was sentenced to imprisonment already undergone by him in this case.

Briefly stated the prosecution story is that on 19.06.2011 a police party from Police Station Sadar Thanesar led by ASI Kehar Singh was present in the area of Pipli in connection with patrolling, where complainant - Jagdish came and got his statement recorded contending therein that he was driver on canter No. HR-69A-1019 for the last six months belonging to Shree Bajrang Fighter Carrier Company Kundali, the owner / proprietor of which was Satbir Singh; that on 18.06.2011 at 4:00 a.m. in the morning he had driven that canter from Kundali to Panchkula and then Kalka with canter loaded with biscuits; that he delivered the consignment at destination and started return journey for Kundali at 7:45 pm; that at about 11:00 p.m. when his vehicle had reached just ahead of Pipli Parakeet, he stopped the canter by the side of G.T. road and he slept on the top of the canter; that at about 11:30 p.m. one Bolero vehicle which was carrying blue beacon on its top came there, in which six persons were sitting; that they stated that he had caused accident on the way and asked for accompanying them to the police station; that they got him boarded in the Bolero vehicle and snatched his Chinese mobile phone having Vodafone company sim

No.8053227848 and switched off the same and took him through a link road to a (KOTHA) room, where they tied him with the pillar of verandah with the help of a rope; that they also robbed him of his purse containing ₹1600/- driving licence, ATM card and his PAN card; that two persons out of them remained there and remaining four persons went towards Pipli in the same Bolero vehicle and after half an hour they came back with his canter vehicle and then all of them went towards village Shadipur; that while leaving the spot, the accused tied him with a rope and gagged his mouth with a handkerchief of white colour. According to the complainant he remained there all the night and on the next day in the morning at 6:15 a.m. he observed a person in the adjoining tubewell and on his calling, that person came to him; that the said persons tried to untie the rope but was unsuccessful, then he fetched a knife from his tubewell and cut the rope, that person disclosed his name as Jagir Singh son of Sarda Ram resident of Shadipur Ladwa; that after sometime a car and three motor-cycles came there, they got him boarded in the car and dropped him at Pipli; that the four persons who robbed him were in the age group of around 27/28 years and the age of remaining two was 18/19 years; out of them two were having country-made pistols and one was having double barrel gun.

This statement formed basis for registration of FIR. The matter was investigated, the Investigating Officer went to the spot, prepared rough site plan, thereafter recorded statements of witnesses. Accused were arrested. On completion of investigation and other formalities, they were challaned.

The Magistrate in whose Court the challan was filed, after complying with provisions of Section 207 Cr.P.C. committed the case to the Court of Sessions and it was assigned to Additional Sessions Judge, Kurukshetra.

Learned Additional Sessions Judge, Kurukshetra observing that offences punishable under Sections 395, 467, 468, 471 read with Section 120-B IPC were disclosed against them, they were charge-sheeted accordingly, to which they pleaded not guilty and claimed trial.

During the course of prosecution evidence, prosecution examined PW-1 Jagir Singh, PW-2 C. Karan Singh, PW-3 Jagdish – complainant, PW-4 HC Rajesh Kumar, PW-5 Satyaveer, PW-6 Bharat Singh, PW-7 Dr. Dinesh Singh, PW-8 HC Isham Singh, PW-9 ASI Sewa Singh, PW-10 ASI Ram Parkash, PW-11 Jagpal EASI, PW-12 ASI Kehar Singh, PW-13 HC Sudeep Kumar, PW-14 SI Balbir Singh, PW-15 Inspector Yogesh Hooda and PW-16 Jagdish Chander, with that the evidence of prosecution stood closed.

Statements of accused were recorded under Section 313 Cr.P.C. in which all the circumstances appearing against the accused were put to them, but they denied the allegations contending that they were innocent. However, they did not lead any evidence in their defence.

After hearing arguments, learned trial Court had convicted and sentenced the accused as mentioned above.

At the very outset, learned counsel for the appellants have

submitted that they do not challenge the impugned judgment as regards the conviction but have got submissions to make regarding the sentence part.

In view of above, the impugned judgment with regard to appellants – Satar, Narender Pal, Aalim, Aarif and Ishtgar, is upheld as regards their conviction under Section 395 IPC.

Now coming to the sentence part, learned counsel for the appellant - Satar has contended that appellant is married having three minor children, he has got a big family to support which includes his old father.

Learned counsel for the appellants Narender Pal and Aalim has contended that the appellant Narender Pal is unmarried and only son of the old aged parents and appellant Aalim is married having three daughters and one son and has got a big family to support.

Learned counsel for the appellant Arif has contended that appellant is aged about 27 years and is married having one son and old aged father to look after.

Learned counsel for the appellant Ishtgar contended that the appellant is unmarried having old aged parents.

Counsel for the appellants further contended that the appellants have already undergone substantial period of imprisonment, therefore a lenient view in the matter be taken.

On the other hand learned State counsel submits that the sentence imposed should not be interfered with and rather should be

confirmed.

As per the custody certificates filed by the State counsel, appellant/accused Satar has undergone two years, seven months and seventeen days including remission, appellant/accused Narender Pal has undergone one year, eleven months and eighteen days including remission, appellant/accused Aalim has undergone one year, six months and three days including remission, appellant/accused Aarif has undergone two years, five months and twenty eight days including remission and appellant/accused Ishtgar has undergone two years, eight months and seven days including remission.

After hearing the rival contentions, I find that ends of justice would be properly met if the appellants – Satar, Narender Pal, Aalim, Aarif and Ishtgar are sentenced to imprisonment already undergone by them while in custody in the present case as mentioned supra, whereas the part of conviction relating to the payment of fine is kept as intact. Therefore, the impugned judgment is upheld as regards conviction part qua appellants – Satar, Narender Pal, Aalim, Aarif and Ishtgar.

However, as far as sentence part is concerned the same is modified and they are sentenced to imprisonment already undergone by them in this case. Whereas the sentence regarding payment of fine of ₹10,000/- each in default of payment of fine to undergone simple imprisonment for six months remains intact. The trial Court is directed to recover the fine from them.

As such the appeals challenging the impugned judgment

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stand disposed of with above modification in sentence.

Necessary intimation be sent to the quarter concerned.

**13.12.2017**  
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**(H.S.MADAAN)**  
**JUDGE**

**Whether reasoned/speaking : Yes/No**

**Whether reportable : Yes/No**