

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

Crl. Appeal No.S-4570-SB of 2016 (O&M)

Date of Decision: November 02, 2017

Saroj

...Appellant

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.P.S.Mann, Advocate
for the appellant.

Mr.Brijesh Sharma, Asstt. Advocate General, Haryana
for the respondent-State.

Mr.L.M.Gulati, Advocate
for respondents No.2 to 8.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against State of Haryana and other respondents, challenging the judgment dated 09.09.2016 passed by learned Addl. Sessions Judge, Rohtak, vide which the appeal filed by accused-respondents against the judgment of conviction dated 14.07.2014 and order of sentence dated 17.07.2014 passed by learned Judicial Magistrate Ist Class, Rohtak, was partly allowed and the conviction of the accused-respondents was upheld, however, they were released on probation on their furnishing personal bonds in the sum of ₹25,000/- each with one surety of the like amount to the satisfaction of the trial Court etc.

with further direction to keep peace and be of good behaviour for one year.

Notice of motion was issued. Learned State counsel as well as learned counsel for respondents No.2 to 8 appeared and contested the appeal.

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

From the record, I find that challan was presented against Chand Ram and nine other accused in case FIR No.231 dated 11.08.2006 under Sections 148, 149, 323, 452 and 506 IPC. Learned JMIC, Rohtak, after appreciation of the evidence, convicted the accused-respondents under Sections 323 and 452 read with Section 149 IPC and sentenced them to undergo rigorous imprisonment for a maximum period of two years under Section 452 read with Section 149 IPC along with fine. Appeal was filed by the accused-respondents before Court of Session and learned Addl. Sessions Judge, Rohtak, vide impugned judgment dated 09.09.2016, partly accepted the appeal and released them on probation while upholding their conviction, as stated above.

Aggrieved from the impugned judgment dated 09.09.2016, present appeal has been filed by the appellant-complainant.

Section 372 Cr.P.C. provides as under:-

372. No appeals to lie unless otherwise provided.- No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.

The perusal of proviso which has been inserted under Section 372 Cr.P.C. by way of amendment w.e.f. 31.12.2009, the victim can only prefer appeal against the order of acquittal, or where the accused has been convicted for lesser offence or where the compensation is inadequate. In the present case, all the three conditions are not there. The accused have been convicted and they have been released on probation. It is not the case of the victim-complainant that accused have been convicted for lesser offence. The complainant is aggrieved from the order of probation and asking for sentencing the accused. For this specific relief, the complainant cannot file appeal.

Therefore, present appeal stands dismissed being not maintainable.

November 02, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No