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

**1. CRA-S- 664-SB-2014
Date of Decision : July 20, 2017**

Bablu Appellant

Versus

State of Punjab Respondent

2. CRA-S-988-SB-2014

Johny Sharma Appellant

Versus

State of Punjab Respondent

3. CRA-S-2044-SB-2014

Sikander alias Deepu and another Appellants

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present Mr. G.S.Verma, Advocate,
for appellants in CRA-S-664-SB-2014
and CRA-S-988-SB-2014.

Mr. S.S.Tiwana, Advocate,
for appellants in CRA-S-2044-SB-2014.

Mr. Rahul Rathore, DAG, Punjab,
for the respondent State.

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SHEKHER DHAWAN, J.

Present three appeals are directed against the common judgment of conviction and order of sentence dated 19.12.2013 passed by learned Additional Sessions Judge, Ludhiana, whereby all the accused-appellants were convicted and sentenced as under :-

Under Section	Sentence	In default
396 IPC	to undergo Rigorous Imprisonment for a period of Ten years and to pay a fine of ₹10,000/- each.	to undergo Simple Imprisonment for a period of One year each.

2. Facts relevant for the purpose of decision of present three appeals; that initially on 18.7.2007, FIR No. 104 was registered against unknown persons on the statement of Amar Nath to the effect that he had three sons namely, Rajesh Kumar alias Bablu, Ram Kishan and Sunny Kumar. His elder son Rajesh Kumar, was working at Arpan Medical Store, Near Dayanand Medical Hospital, Ludhiana. On 17.7.2007, he went for his duty but did not return back. For whole night the complainant alongwith his family members searched for him, but to no effect. On 18.7.2007 at about 7.00 AM, he received an information that the dead body of his son, Rajesh Kumar was lying on Kachcha road, near Malian Di Kothi along with his mobile. On reaching the spot, they found that there were marks on the dead-body of deceased Rajesh Kumar, i.e. on the right side of his stomach, left side of his chest, right ear and on his back. Thereafter, on 10.10.2007, statement of Bhuvnesh Sharma, Prosecution Witness was recorded and it was found that the alleged offence was committed by all the above named

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accused.

4. During trial, learned Court below completed various proceedings of trial including framing of charge against the accused, recording of statement of the witnesses and examination of accused under Section 313 Cr.P.C. After considering the prosecution evidence and the defence version on record, learned trial Judge held the appellants guilty and convicted them for commission of offence punishable under Section 396 IPC and sentenced them vide order dated 19.12.2013.

5. Aggrieved of passing of judgment of conviction and order of sentence, the appellants are before this Court by way of present appeals.

6. At the time of arguments, learned counsel for the appellants contended Learned counsel for the appellant contended that they do not challenge the judgment of conviction of the appellants. However, learned counsel representing the appellants mainly contended that the appellants have already suffered much agony of law by facing protracted litigation of more than 10 years and by now, they have already undergone substantial period of sentence.

7. Learned counsel representing appellants, Sikander alias Deepu and Jitender alias Rahul has also submitted that the appellants were also facing trial in another case bearing FIR No. 166 dated 10.10.2007 registered under Section 302/397 IPC at Police Station Haibowal, Ludhiana and they were convicted under Section 396 IPC vide judgment dated 19.12.2013 passed by learned Additional Sessions Judge, Ludhiana and sentenced to

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undergo Rigorous Imprisonment for 10 years. In that case, both the appellants have already undergone the substantive sentence awarded to them. To substantiate this fact, he has placed on record custody certificate of Sikander Singh dated 20.7.2017. He has submitted that the applicants-appellants have already filed CRM-11769-2017 under Section 427 Cr.P.C. for grant of permission to concurrent the sentence awarded in both the cases.

8. Learned State counsel while confirming the period of sentence undergone by appellants contended there is no ground for reduction of sentence.

9. Having considered the submissions made by learned counsel for parties and after going through the record, there is no ground to interfere in the impugned judgment of conviction. Learned trial Judge has rightly held the accused-appellants guilty for commission of offence punishable under Section 396 IPC and all the appeals against the judgment of conviction stand dismissed.

10. As regard to order of sentence, there is substance in the contention of learned counsel for the appellants and this Court is of the considered view that the sentence awarded to the appellants needs to be reduced from 10 years under Section 396 IPC. So ordered. Resultantly, the sentence awarded to the appellants is reduced from 10 years to 7 years under Section 396 IPC with no change in default stipulation.

11. CRM No. 11769-2017 filed by applicants-appellants in CRA-S-2044-S-2014 stands allowed and the sentence awarded by the trial Court to

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the appellants in case FIR No. 104 dated 18.7.2007 and FIR No. 166 dated 10.10.2007 is ordered to run concurrently.

12. The appeals qua order of sentence are partly allowed in the above terms. Learned trial Judge is directed to comply with this order forthwith under intimation to this Court.

(SHEKHER DHAWAN)
JUDGE

July 20, 2017
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Whether speaking/reasoned	:	Yes
Whether Reportable	:	Yes