

CRA-S-1906-SB of 2003

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

CRA-S-1906-SB of 2003
Date of decision: 28.02.2017

Siri and others

....Appellants

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. J.S. Hooda, Advocate, for the appellant.
Mr. Gaurav Bansal, AAG, Haryana.
Mr. Navin Atarya, Advocate, for the complainant.

RAMENDRA JAIN, J. (ORAL)

Present criminal appeal has been preferred by the appellants against judgment of conviction dated 09.09.2003 and order of sentence dated 12.09.2003 passed by learned Additional Sessions Judge, Faridabad, whereby appellants, in a case arising from FIR No.316 dated 29.05.2000 registered under Sections 323/324/307/506/34 IPC and 25/54/59 of the Arms Act, have been sentenced to undergo rigorous imprisonment for a maximum period of seven years for an offence punishable under Section 307 read with Section 34 IPC besides sentencing them under Sections 323/324/506 read with Sections 34 IPC and 25 of the Arms Act. However, all the sentences have been ordered to run concurrently.

2. I have heard the learned counsel for the parties and perused the

CRA-S-1906-SB of 2003

record.

3. Learned counsel for the appellants states that he does not challenge the impugned judgment qua conviction of the appellants on merit. However, since the parties have compromised the matter and thus the matter qua sentence of the appellants may be taken into consideration with leniency. He further contended that the criminal trial is hanging on the heads of the appellants like damocle's sword for last many years and it should be a sufficient mitigating circumstance to treat them leniently as the appellants have suffered the ordeal for a long period.

4. As per custody certificates filed by learned State counsel on 15.02.2017, appellant No.1 – Siri has undergone total sentence of 01 year 02 months and 12 days, which includes remission of 02 months and 12 days whereas appellant No.3 – Rohtash has undergone total sentence of 01 year 03 months and 12 days, which includes remission of 02 months and 28 days. Under the Arms Act, prior to amendment, minimum imprisonment under Section 25 of the Arms Act, was one year which according to the custody certificates both the appellants have already undergone. The appeal qua appellant No.2 – Attar Singh stands abated vide order dated 22.12.2014 on account of his death.

5. Perusal of compromise (Ex.C1) coupled with statements of complainant Partap and injured Dayanand on oath along with their counsel Sh. Navin Atarya shows that they have compromised the matter with appellants No.1 and 3 namely Siri and Rohtash, respectively, with the intervention of respectables of the village and brotherhood without any pressure, coercion or undue influence from any corner. Complainant Partap

CRA-S-1906-SB of 2003

and injured Dayanand have categorically stated that they have no objection if appellants No.1 and 3 namely Siri and Rohtash, respectively, are acquitted of the charge while setting aside the impugned judgment of conviction dated 09.09.2003 and order of sentence dated 12.09.2003 passed by learned Additional Sessions Judge, Faridabad.

6. Considering the overall facts and circumstances of the case and the fact that appellants No.1 and 3 namely Siri and Rohtash, respectively, have faced the protracted trial for more than 16 years, this Court is of the view that no useful purpose will be served by sending appellants No.1 and 3, who are stated to be on bail, behind the bars further. More so, the compromise entered in between the parties would bring harmony in their relations. Accordingly, the impugned judgment of conviction dated 09.09.2003 qua conviction of the appellants under Sections 323/324/307/506 read with Section 34 IPC and 25 of the Arms Act is hereby upheld. Consequently, the appeal of the appellants to this extent is hereby dismissed. However, in view of the above discussion, the order of sentence dated 12.09.2003 is modified to the extent that the sentence awarded to the appellants is reduced to the period already undergone. The unpaid fine imposed by the trial Court is waived off. However, appellants No.1 and 3, namely, Siri and Rohtash, respectively, shall deposit ₹ 10,000/- each towards cost of the proceedings in the Government Treasury under the relevant head within one month from today. The challan/receipt of the aforesaid deposit shall be produced by appellants No.1 and 3 before the Chief Judicial Magistrate, Palwal within the requisite time. However, it is

made clear that if the appellants would fail to deposit the above cost of the

CRA-S-1906-SB of 2003

proceedings of ₹ 10,000/- each, in that eventuality this order shall stand cancelled without making any reference to the Bench and their appeal shall be treated to have been dismissed on merits. Resultantly, the impugned judgment of conviction and order of sentence, including default clause, shall stand affirmed and appellants No.1 and 3 shall serve the remaining part of sentence.

7. With the observations made above, the present appeal is disposed of.

8. A copy of this order be sent to the CJM, Palwal for information and necessary compliance.

February 28, 2017
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No