

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

**CRA-S-1277-SB-2011 (O&M)
Date of decision: 14.05.2018**

Rohtash and others

... Appellants

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sanjay Vashisth, Advocate
for the appellants.

Mr. Himmat Singh, DAG, Haryana.

Mr. Amandeep Singh, Advocate
for respondents No.2 to 5.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this appeal is for setting aside the judgment of conviction dated 25.04.2011 passed by the trial Court, vide which the appellants were held guilty of offence punishable under Sections 323, 324, 326, 307, 452, 506 of the Indian Penal Code (for short 'IPC') read with Section 34 IPC. Appellants No.1 & 2 were further convicted for the offence punishable under Section 25 of Arms Act and vide order of sentence dated 28.04.2011, the appellants were ordered to undergo 05 years R.I. along with a fine of Rs.2,000/-. In default of payment of fine, they were further ordered to undergo simple imprisonment for one month and appellants No.1 & 2 were further ordered to undergo 01 year R.I. under Section 25 of Arms Act along

with a fine of Rs.5,000/- and in default of payment of fine, they have to undergo one month S.I.

Brief facts of the case are that FIR No.39 dated 01.03.2010 under Sections 148, 149, 323, 324, 325, 326, 452, 506, 307 IPC and Section 25 of Arms Act, Police Station Siwani, District Bhiwani was registered at the instance of PW1 Kishori Lal that appellants Rohtash, Om Parkash and Subhash along with three other co-accused namely Sunil Kumar, Ram Kumar and Pawan Kumar have caused injuries to PW2 Santosh Devi, Naresh Kumar and Parhlad Singh on account of a dispute regarding enmity in the village. The trial Court, after framing of charges, recorded the prosecution evidence and acquitted three other co-accused namely Sunil Kumar, Ram Kumar and Pawan Kumar, however, convicted the appellants under Sections 323, 324, 326, 307, 452, 506 IPC and the trial Court also convicted appellants No.1 & 2 under Section 25 of Arms Act.

The appellants have filed the present appeal challenging the judgment of conviction dated 25.04.2011 and order of sentence dated 28.04.2011, vide which they have been convicted and directed to undergo R.I. for a period of 05 years along with a fine of Rs.2,000/- each and in case of appellants No.1 & 2, Rs.5,000/- under Section 25 of Arms Act.

During pendency of the appeal, sentence of appellant No.1 Rohtash and appellant No.2 Om Parkash was suspended on 05.12.2011, as injury under Section 307 IPC was attributed to appellant No.3 Subhash. At that time, both appellants No.1 & 2 had undergone 11 months of actual sentence. Later on, sentence of appellant No.3 Subhash was also suspended on 21.11.2012, noticing the fact that he has already undergone 01 year and 09

months of actual sentence as against 05 years R.I. awarded by the trial Court.

In the meantime, the parties have entered into an agreement and on the basis of compromise, the appellants have filed CRM-26216-2016 for fixing some actual date and disposing of the appeal in view of the compromise/settlement dated 03.07.2017 (Annexure P-1). Thereafter, vide order dated 29.01.2018, the parties were directed to appear before the Mediation and Conciliation Centre at Bhiwani for recording their respective statements in support of the compromise. Report from the Mediation and Conciliation Centre, Bhiwani has been received through Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, Bhiwani. As per this report, statement of the complainants i.e. PW1 Kishori Lal and three other injured persons i.e. PW2 Santosh Devi, Prahlad Singh and Naresh Kumar has been recorded and as per the statement, they have deposed that they are residents of same village and belong to same family. They have settled their dispute and have decided to forgive the old enmity and live peacefully in the village. It is further stated that in future, they will not keep any grudge against each other and the compromise has been effected in presence of the respectables and they have no objection if the appeal is decided in accordance with the compromise. Similar statement has been made by the appellants that they have compromised the matter with the complainants in the Panchayat and have undergone to live peacefully as their dispute has been resolved.

Learned counsel for the appellants has relied upon **Ishwar Singh Vs. State of Madhya Pradesh, 2009 (1) RCR (Criminal) 1**, wherein the Hon'ble Supreme Court, in an appeal filed against the judgment of conviction under Section 307 IPC, has held that in case of compromise during pendency

of an appeal, since offence under Section 307 IPC is not compoundable, the sentence can be reduced to the period already undergone. Similar is the view taken by this Court in **Raj Kumar Vs. State of Haryana, 2016 (2) RCR (Criminal) 693.**

Learned counsel for respondents No.2 to 5 has submitted that the parties have entered into a legal and valid compromise and he has no objection if the sentence awarded by the trial Court to the appellants is reduced to the period already undergone by them.

After hearing learned counsel for the parties, in view of the judgment of the Hon'ble Supreme Court in **Ishwar Singh's** case (supra), this appeal is partly allowed. The judgment of conviction dated 25.04.2011 is upheld, however, substantive sentence of 05 years R.I. awarded by the trial Court is reduced to the period i.e. 09 months of actual sentence, already undergone by appellants No.1 & 2 and about 11 months of actual sentence in case of appellant No.3. Fine imposed on the appellants i.e. Rs.5,000/- is upheld. The appellants are granted two months' time to deposit the amount of fine with the trial Court/Chief Judicial Magistrate/Illaq Magistrate, failing which this appeal stand dismissed without any further orders.

With the aforesaid modifications, present appeal is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

14.05.2018
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No