

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA No. S-1949-SB of 2005 (O/M)
Date of decision : 28.9.2018

Raj Kumar alias Raju

..... Appellant

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Narinder Singh, Advocate,
for appellant.

Mr. Sandeep Mann, AAG Punjab.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

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KULDIP SINGH J. (ORAL)

Heard.

The learned counsel for appellant presses the appeal only on the quantum of sentence. The allegations against appellant are that he was running a firework factory in a residential house. His neighbour Harbans Lal raised objections many times, but accused-appellant did not remove factory out of residential area. On 6.10.2004, at about 12 noon, an explosion took place in the said factory, as a result of which, roof of house of

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the complainant collapsed. The house was converted into rubbles. In the said explosion, wife of complainant Shakuntla Devi and children, namely, Neetu, Mukesh and Happy were buried under debris. They were removed by neighbours. However, Shakuntla Devi succumbed to injuries. The trial Court had initially framed charges under Sections 304, 427 IPC and under Section 9 of Indian Explosive Act, 1884. However, after recording evidence, accused was convicted under Sections 304-A, 427 IPC and under Section 9-B sub clause (b) of Indian Explosive Act, 1884, and was sentenced to undergo rigorous imprisonment for three years and fine of Rs. 2,500/-, in default thereof, to further undergo rigorous imprisonment for three months under Section 304-A IPC. He was also sentenced to undergo rigorous imprisonment for six months under Section 427 IPC. He was further sentenced to undergo rigorous imprisonment for six months under Section 9-B sub clause (b) of Indian Explosive Act, 1884, vide judgment of conviction and order of sentence dated 19.10.2005, passed by learned Additional Sessions Judge, Bathinda. All the sentences were directed to run concurrently.

At the very outset, it is pointed out that maximum sentence provided in Section 304-A IPC is two years. Therefore, sentence awarded under Section 304-A IPC is not sustainable in the eye of law.

The learned counsel for appellant pleaded for leniency and stated that during trial, appellant remained in custody for one year and one month.

Considering the entirety of circumstances and considering that occurrence took place about 14 years back, sentence of rigorous imprisonment for 3 years under Section 304-A IPC is set aside and instead

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appellant is sentenced to undergo rigorous imprisonment for one year and six months under Section 304-A IPC. The remaining part of sentence is maintained. The sentence under Section 9-B sub clause (b) of Indian Explosive Act, 1884, is maintained. Let accused be rearrested and sent to jail to undergo remaining part of sentence.

With the abovenoted modification, appeal is dismissed.

(KULDIP SINGH)
JUDGE

28.9.2018
sjks

Whether speaking / reasoned : Yes / No

Whether Reportable : Yes / No