

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

CRA-S-612-SB-2006

Date of decision : 14.12.2018

Kartar and another

..... Appellants

versus

The State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present: Mr.B.S.Saroha, Advocate for the appellants.

Mr.Vikrant Pamboo, Deputy AG, Haryana.

T.P.S.MANN, J. (ORAL)

Convicts Kartar and Ramdhari have filed the present appeal for challenging judgment and order dated 8/9.03.2006 passed by learned Additional Sessions Judge (Fast Track Court), Bhiwani.

Vide impugned judgment and order, learned trial Court convicted and sentenced the appellants as mentioned below:-

- (i) convicted under Section 307 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs. 2,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for three months;
- (ii) convicted under Section 325 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for two years and pay a fine of Rs. 1,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for two months; and,
- (iii) convicted under Section 323 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for six months each.

The period of custody already undergone by them during the investigation and trial was ordered to be set off against the substantive sentences awarded to them. All the substantive sentences were ordered to run concurrently.

According to the prosecution, on 9.12.2004 at about 7.30 p.m. complainant Ravi Parkash and Kurda Ram were taking liquor at the shop of Satan. Both the appellants were also there and taking liquor. When the appellants came out of the shop, the complainant offered another glass of liquor to Ramdhari-appellant who asked him to meet him in the temple. When they reached the temple, Kartar-appellant and Kurda Ram started quarrelling. The complainant went inside the temple to separate them. However, when he reached there, Ramdhari-appellant inflicted brick blow on the back of his head whereas Kartar-appellant also inflicted brick blow on his head. Both the appellants inflicted further brick blows on the person of Kurda Ram.

Learned counsel for the appellants states that he does not challenge the impugned judgment of conviction passed by the learned trial Court. However, he states that there was no previous enmity between the parties. The occurrence had taken place when there arose a dispute between them while taking liquor. None of them was armed with conventional weapons. They were said to have inflicted brick blows on the complainant and Kurda Ram. They have been undergoing the agony of the criminal prosecution for the last more than 14 years. They have undergone substantial portion out of the sentence of imprisonment imposed upon them. Prayer has accordingly been made for taking a lenient view in the matter of their

sentences of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that complainant Ravi Parkash had received four injuries on his person whereas Kurda Ram had received five injuries. As there was a fracture of left temporal bone and fracture of left zygomatic bone, injury No.1 on the person of Kurda Ram was declared dangerous to life. Because of the injuries, Kurda Ram had remained admitted in the hospital for 9 days. Learned State counsel has, however, produced the custody certificates as per which Kartar-appellant has undergone an actual period of 01 year 07 months and 04 days whereas Ramdhari-appellant has undergone 01 year 01 month and 24 days. None of them is shown to be either involved or convicted in any other case.

Taking into consideration the totality of the circumstances, this Court is of the view that the appellants who are on bail since the year 2006 need not be sent behind the bars for undergoing their remaining sentences of imprisonment. Ends of justice would be suitably met if their substantive sentences are reduced to the one already undergone by them. At the same time the fine imposed upon them by the learned trial Court can be suitably enhanced so as to compensate the injured.

Resultantly the conviction of the appellants, as recorded by the learned trial Court, is maintained. Their substantive sentences of imprisonment are reduced to the one already undergone by them. The fine of Rs. 2,000/- imposed upon each of them under Section 307 read with Section 34 is, however, enhanced to Rs. 10,000/- each and in default of payment of fine, they shall undergo simple imprisonment for six months.

The fine of Rs. 1,000/- imposed for the offence under Section 325 read with Section 34 IPC along with its default clause is maintained. The entire fine amount be deposited by them in the Court of learned Chief Judicial Magistrate, Bhiwani within a period of three months from today. In the event of deposit/recovery of the fine amount, the same shall be disbursed in favour of the two injured in equal proportions as compensation.

The appeal is accordingly disposed of.

(T.P.S.MANN)
JUDGE

14.12.2018
sunita

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No