

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-942-SB-2012 (O&M)
Date of decision: 13.01.2018

Bahadur Khan

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Amaninder Preet, Advocate
for the appellant.

Mr. Abhaypal Singh Gill, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Challenge in this appeal is to the judgment of conviction dated 14.02.2012, vide which the trial Court has convicted the appellant-accused for an offence punishable under Section 353 of the Indian Penal Code (for short 'IPC') and has sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/-.

Brief facts of the case are that on 21.10.2009, Sh. Kuldeep Singh Dhariwal, Excise and Taxation Officer Mobile Wing, Punjab, Chandigarh made a complaint to SHO Police Station Phase-I, Mohali that he along with police officials had laid a 'Naka' i.e. a barrier on the road connecting Phase-I and Phase-6 in front of a factory for conducting checking of goods vehicles. At that time, a truck bearing registration No.HR-38C-8217 came from the side of Police Station Phase-1, Mohali and took a turn towards Chandigarh. When the complainant and others gave a signal to driver of the truck to stop, instead of

stopping the truck, he turned the vehicle towards the officials and tried to run over them. The complainant and other officials saved their life by their running away. Thereafter, they chased the truck and stopped it near a house in Phase-1, Mohali. On apprehending the truck driver, he raised a quarrel with them and informed that the truck belong to one Narinder Singh Saini of Punjab-UP Roadways and he was going ahead of his truck in a black coloured car bearing registration No.CH-03S-7107 and he had instructions from his employer that in case any official gave a signal to stop, he should hit the truck and run away. With these allegations, FIR No.415 dated 21.10.2009 under Sections 186, 353, 307, 506, 511 IPC was registered at Police Station Mohali.

On completion of investigation, the challan was submitted under Section 173 Cr.P.C. Since the offence under Section 307 IPC was triable by the Court of Sessions, the same was committed to the Court of Sessions vide order dated 05.02.2011. Thereafter, the trial Court vide its order dated 23.03.2011 framed the charges under Sections 307 and 353 IPC and the accused claimed trial.

The prosecution in evidence, examined PW1 Kuldeep Singh Dhariwal-complainant, who deposed on the lines, as per the version given in the FIR. PW2 ASI Jaswinder Singh and PW3 Constable Gurmit Singh also deposed on the same lines. Thereafter, prosecution examined PW4 Inspector Rajesh Kumar, Investigating Officer and closed the prosecution evidence.

Thereafter, the statement of accused was recorded under Section 313 Cr.P.C. and he denied all the incriminating evidence put to him and pleaded false implication and innocence. However, no defence evidence was led.

The trial Court, vide its judgment dated 14.02.2012 held that the prosecution has failed to prove that offence under Section 307 IPC is made out

from the evidence of the prosecution, however, held the appellant-accused guilty of offence punishable under Section 353 IPC, observing that neither the complainant nor any police official received any injury. However, as per the evidence, it appears that the accused has given a jerk to his truck to threaten the officials and tried to run away.

Learned counsel for the appellant, at the very outset, submits that he do not intend to challenge the judgment of conviction and has addressed arguments only with regard to the sentence and prayed that the sentence awarded to the appellant may be reduced to the period already undergone by him. Counsel for the appellant further submits that the appellant-accused is not a previous convict, he is only bread-winner of his family and is a poor person. The appellant has three minor children and old-aged mother. Counsel for the appellant has further submitted that the appellant is presently about 47 years of age and is not facing the trial in any other case. It is further submitted that the appellant has undergone actual imprisonment of 25 days, as it is reflected in the order of sentence dated 14.02.2012 and he has also paid the amount of fine of Rs.1,000/- as per the order granting interim bail to him to enable him to file the present appeal.

Counsel for the appellant further submits that FIR pertains to the year 2009 and the appellant has faced the agony of protracted trial for about 09 years and during this period, the appellant was on bail during the trial as well as during pendency of the present appeal and he has not misused the concession of bail in any manner.

Learned State counsel has not disputed the factual position as noticed by the trial Court on the basis of appreciation of evidence.

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

Since the appellant has not challenged the judgment of conviction, his conviction under Section 353 IPC held by the trial Court vide judgment dated 14.02.2012 is upheld. However, I find merit in the submissions made by learned counsel for the appellant that the sentence awarded to the appellant i.e. six months R.I. and a fine of Rs.1,000/- under Section 353 IPC may be reduced to the period already undergone by him.

Since the appellant is aged about 47 years; he has faced the protracted trial for about 09 years; he has not misused the concession of bail either during the trial or during pendency of the present appeal; he is the only bread-earner of his family and has three minor children and old-aged mother; he is not involved in any other case and is the first offender, this appeal is partly allowed and the sentence awarded by the trial Court i.e. six months R.I. with a fine of Rs.1,000/- is reduced to 25 days, already undergone by the appellant. Since the amount of fine of Rs.1,000/- has already been paid, no further action is required in this regard.

With the aforesaid modifications, present appeal is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

13.01.2018
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No