

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRA-S-3520-SB of 2015

Decided On : 21.04.2018

Kulbir @ Bhonda

....

Appellant

vs.

State of Haryana

....

Respondent

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

Present : Mr. Jaspal Singh Pannu, Advocate
as legal aid counsel for the appellant.

Mr. Kapil Aggarwal, Addl. A. G., Haryana.

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DEEPAK SIBAL, J. :

Through judgment dated 09.06.2015 passed by the Additional Sessions Judge, Rohtak (for short – the trial court), the appellant was convicted for having committed offences under Sections 307 and 323 of the Indian Penal Code, 1860 (for short – IPC) and consequently, through order of sentence dated 10.06.2015, he was directed to undergo rigorous imprisonment for a period of five years and to pay fine of Rs. 5,000/- (in default of payment of fine, to further undergo simple imprisonment for a period of three months). He was further directed to pay compensation of Rs.10,000/- to the complainant-victim. Aggrieved by his conviction and sentence, the appellant has filed the present appeal.

The case of the prosecution is that on 12.09.2010, when complainant – Narender, at about 09-10:00 PM was coming home, three boys namely Yogi, Kannu and Bhonda stopped him. They asked him to take

liquor but he refused. Then Bhonda gave a *sua* blow on his left eye and Kannu gave a *sua* blow on his waist.

On the conclusion of the investigation, report under Section 173 Cr.P.C. was filed against the accused. Since the offence under Section 307 IPC was exclusively triable by the court of Sessions, the same was committed to that Court, from where it was marked to the court of Additional Sessions Judge, Rohtak. On finding a prima facie case against the accused, they were charged under Sections 307, 323 and 506 read with Section 34 IPC and on them pleading not guilty, were put on trial.

The trial court, after sifting the evidence which had come on record, found the appellant guilty and awarded him the aforesaid sentence. Yogi @ Yogesh was acquitted. So far as Kannu @ Gautam was concerned, since he absented from trial, he was declared a Proclaimed Offender.

Learned counsel for the parties have been heard.

Custody Certificate filed by learned State counsel today in Court is taken on record, as per which, the appellant has already undergone sentence of 04 years, 10 months and 24 days, out of the total awarded sentence of five years. Counsel for the appellant submits that the appellant has also paid the awarded compensation of Rs.10,000/- to the complainant.

Learned counsel for the appellant submits that he does not challenge the judgment passed by the trial court on the point of conviction. However, in view of the fact that the appellant has already undergone nearly the entire awarded sentence; the incident pertains to the year 2010 and that the appellant has already compensated the victim, he prays that this Court

may take a lenient view regarding the sentence part.

Taking into consideration the totality of circumstances, this Court is of the view that no useful purpose would be served by sending the appellant behind the bars once again for undergoing his remaining sentence of imprisonment as he has already undergone virtually the entire sentence. Ends of justice shall be suitably met if his substantive sentence of imprisonment is reduced to the one already undergone by him. Resultantly, conviction of the appellant under Section 307 and 323 IPC is upheld. His sentence of imprisonment is reduced to the one already undergone by him. However, the sentence of fine along with its default clause is maintained.

The appeal stands disposed of in the above terms.

**(DEEPAK SIBAL)
JUDGE**

April 21, 2018

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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>