

default of payment of fine to further undergo rigorous imprisonment for 10 days.

QUIM KHAN

Under Section 395 IPC : To undergo rigorous imprisonment for 4 years and to pay fine of Rs.4000/-, in default of payment of fine, to further undergo rigorous imprisonment for one month.

Under Section 341 IPC : To undergo rigorous imprisonment for one month.

Under Section 506 IPC : To undergo rigorous imprisonment for two years and to pay a fine of Rs.1000/-, in default of payment of fine to further undergo rigorous imprisonment for 10 days.

ISHRAR KHAN

Under Section 395 IPC : To undergo rigorous imprisonment for 4 years and to pay fine of Rs.4000/-, in default of payment of fine, to further undergo rigorous imprisonment for one month.

Under Section 341 IPC : To undergo rigorous imprisonment for one month.

Under Section 506 IPC : To undergo rigorous imprisonment for two years and to pay a fine of Rs.1000/-, in default of payment of fine to further undergo rigorous imprisonment for 10 days.

All the substantive sentences were ordered to run concurrently.

Briefly stated the facts of the case as per prosecution story are that an F.I.R. was lodged on the basis of statement of complainant Amit Kumar which he got recorded with ASI Harbhinder Kumar, heading a police party while present at Lohgarh in connection with patrol duty on 22.12.2009. Inter alia in the said statement the complainant stated that on

11.12.2009 he had purchased 88 blankets and was returning home, while he was waiting to board a bus for going to Chandigarh at Bus stand Dera Bassi, the time was about 12.30 A.M. mid night then a Trax vehicle bearing registration No. HR-68-Q-4364 white in colour without roof came and stopped in front of him. Four persons were sitting on the rear seat whereas one person was sitting on the front seat besides the driver. They offered to take him along with them on payment of Rs.200/-. He agreed to the same and sat on the rear seat of the Trax. When the vehicle had reached near eucalyptus trees close to Khad of village Nagla then the persons sitting in the Trax took out knives and rods and started beating him up and they snatched the blankets, a sum of Rs.900/- besides a mobile phone make Nokia 1208 from him. They made him alight from the Trax and tied him with eucalyptus trees threatening that in case he raised alarm, he would face dire consequences and themselves left. After some time he managed to free himself.

On the basis of such statement, formal F.I.R. was registered. The case was investigated. The accused had been arrested in a case F.I.R. No. 294 dated 25.12.2009 under Sections 379/411 of the Indian Penal Code registered with Police Station Zirakpur. While being interrogated they admitted their involvement in the present case. The complainant was summoned to Police Station, where he identified the accused persons Gaurav Bahadur, Quim Khan and Ishrar Khan. Statements of all three accused were recorded under Section 27 of the evidence Act. Upon disclosure statement made by Gaurav Bahadur, Rs.900/- and three blankets were got recovered from them. Som Bahadur, Veer Bahadur and Abrar

Khan were arrested in this Case on 6.3.2010 and they also got recoveries effected.

After completion of investigation, the accused were challenged. On presentation of challan in the Court they were supplied with copies of documents relying upon therein free of cost. Thereafter the case was committed to the Court of Sessions from where it was assigned to Additional Sessions Judge, SAS Nagar, Mohali.

After consideration, charge for offences under Sections 397, 341, 506 of the Indian Penal Code was framed against the accused to which they pleaded not guilty and claimed trial.

The prosecution adduced evidence during course of which it examined PW1 Amit Kumar, PW2 SI Harbhinder Kumar, PW3 SI Gurwant Singh and PW4 HC Bhushan Kumar.

Statements of accused were recorded under Section 313 Cr.P.C. in which all the incriminating circumstances appearing against them in the prosecution evidence were put to them but they denied the same contending that they are innocent and have been falsely involved in this case.

After hearing of arguments, accused Veer Bahadur, Som Bahadur and Abrar Khan were acquitted of the charges framed against them whereas accused Gaurav Bahadur, Quim Khan and Ishrar Khan were convicted and sentenced. They have filed the present appeal, notice of which has been given to the State.

I have heard learned counsel for the appellants and learned State counsel besides going through the record.

Learned counsel for the appellants states that he does not

challenge the impugned judgment as regards the conviction, however, he has got submissions to make as regards the sentence part. He submits that the recovery involved is quite small;' the appellants have undergone total sentence of more than 3 years and 7 months. They are poor person as such leniency be shown to them as regards the sentence.

Though this request is being opposed by the State counsel contending that appellants are involved in several other cases and if any leniency is shown to them and sentence is reduced, after being released they may return to the path of crime again. However, in terms of the custody certificate filed by the State counsel Ishrar Khan has undergone 3 years 7 months and 13 days out of total substantive sentence of 4 years awarded to him. With regard to Gaurav Bahadur, he is shown to have undergone 2 years 10 months and 5 days as on 5.12.2017, which means more than 3 years till date.

In my considered view, ends of justice would be adequately met if the sentence of both the appellants is reduced to one already undergone by them in this case. Therefore, the appeal is accepted partly, inasmuch as the impugned judgment is upheld as regards conviction of appellants-accused, whereas sentence is modified to one already undergone while in custody in this case. It is ordered accordingly and the appeal is disposed of in those terms.

(H.S. MADAAN)
JUDGE

February 09, 2018

p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No