

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-1497-SB of 2007(O&M)
Date of Decision: 15.07.2019

Raj Pal Appellant

Versus

State of HaryanaRespondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: None for the appellant.

 Mr. Saurabh Mago, AAG, Haryana.

MAHABIR SINGH SINDHU, J.(Oral)

Present appeal has been filed against the impugned judgment of conviction dated 24.07.2007 and order of sentence dated 26.07.2007 passed by learned Additional Sessions Judge, Sirsa vide which the appellant was held guilty of the offences under Sections 307, 452, 325, 323, 506 read with Section 34 of the Indian Penal Code and sentenced in the following terms:

Under Section	Sentence	In default of Fine
307 read with Section 34 of IPC	Rigorous imprisonment for three years and to pay fine of Rs. 1000/-	To further undergo simple imprisonment for three months.

Under Section	Sentence	In default of Fine
452 read with Section 34 IPC	Rigorous imprisonment for one year	
325 read with Section 34 IPC	Rigorous imprisonment for one year	
323 read with Section 34 IPC	Rigorous imprisonment for six months	
506 read with Section 34 IPC	Rigorous imprisonment for three months	

It has been pointed out by learned State counsel that during the pendency of the appeal, the sole appellant -Raj Pal died on 24.06.2018 and has produced the death certificate of the appellant, the same is taken on record.

There is no dispute that the sole appellant had died on 24.06.2018 and even no legal representative has been brought on record to pursue the appeal. Perusal of application for suspension of sentence bearing CRM-78143 of 2007 reveals that fine of Rs.1,000/- had already been paid.

Section 394(2) of Cr.P.C. reads as under:

394. Abatement of appeals.

(1) XXXX

(2) Every other appeal under this Chapter (except an appeal from a sentence of fine) shall finally abate on the death of the appellant: Provided that where the appeal is against a conviction and sentence of death or of imprisonment, and the appellant dies during the

pendency of the appeal, any of his near relatives may, within thirty days of the death of the appellant, apply to the Appellate Court for leave to continue the appeal; and if leave is granted, the appeal shall not abate.

Keeping in view the above factual position as well as provisions of Sub Section 2 of Section 394 Cr.P.C. reproduced above, the present appeal stands abated and the same is disposed off accordingly.

[MAHABIR SINGH SINDHU]
JUDGE

July 15, 2019
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Whether speaking/reasoned	yes/no
Whether reportable?	yes/no