

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

Sr. No.318

CRA-S-1951-SB-2004 (O&M)

Date of decision : 23.5.2019

Sunil

..... Appellant

VERSUS

State of Haryana

..... Respondent

2

CRA-S-1981-SB-2004 (O&M)

Sunil

..... Appellant

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ashit Malik, Advocate with
Mr. Sagar Aggarwal, Advocate, for the appellant.

Mr. Arun Beniwal, DAG, Haryana.

SUDHIR MITTAL, J. (Oral)

This judgment shall dispose of above two appeals as the same arise out of the offences committed during the same transaction.

2. On 1.9.2000, the S.H.O Police Station Model Town, Panipat, was informed by the complainant Chunni Lal that he had withdrawn a sum of Rs.16,70,230/- from the State Bank of India towards salary and part of the said money was delivered to one Sham Lal Goyal and one Kanwar Pal Rana. The accused persons came to his office at around

01.00 p.m. and robbed a sum of Rs.10,67,880/- and escaped in a red colour Maruti Car bearing registration No.HR-06F-1832. FIR No.240 dated 1.9.2000, was registered at Police Station Model Town Panipat, under sections 392, 394, 397, 120-B, 216-A, 412 of the Indian Penal Code (45 of 1860) (for short 'IPC') and section 25 of the Arms Act, 1959 and investigation was commenced. The police chased the accused persons and cornered them at village Atawala, where they left the car and fled with the money. However, they came within the police cordon laid at village Chulkana and started firing at the police party. The police party returned the fire. Accused were apprehended and entire amount of money was recovered except a sum of Rs.7,880/-. Some arms and ammunitions were also recovered.

3. Since the police party had been fired at, another FIR No. 269 dated 1.9.2000, was registered at Police Station Samalkha, Panipat, under sections 307, 332, 353, 34 IPC and section 25 of the Arms Act, 1959.

4. Learned Addl. Sessions Judge, Panipat, conducted two separate trials and passed two separate judgments on 12.7.2004. Accused Sunil, Surender and Bijender were convicted under section 392 read with section 397 IPC and were sentenced to undergo RI for a period of 10 years with fine of Rs.25,000/- and in default of payment of the same, to further undergo RI for 02 years each. They were also convicted under sections 307 and 353 read with section 34 IPC and were sentenced to undergo RI for a period of 05 years under section 307 read with section 34 IPC and to RI for one year under section 353 r/w 34 IPC, each.

5. I am informed that appeals filed by convict Surender and Bijender have since abated as they died during the pendency thereof. Thus, only the instant appeals filed by convict Sunil are surviving.

6. Learned counsel for the appellant submits that only one FIR should have been registered as the offences under sections 307, 353, 34 IPC, were part of one and the same transaction. The convicts committed robbery and fled. They were chased by the police and on being intercepted, there was an exchange of fire. Thus, separate offences were committed in the course of same transaction and in view of section 220 Code of Criminal Procedure, 1973 (for short 'Cr.P.C') there should have been a single trial. The learned trial Court erred in conducting two separate trials. Further, it is submitted that the sentences be directed to run concurrently as the offences were committed during the course of the act of robbery. Since section 397 IPC, provides a minimum sentence of RI for a period of 07 years, the sentence be reduced to the said minimum period as there is no complaint that the appellant has committed similar offences at any later point of time.

7. Custody certificate dated 2.5.2019, prepared by Sh. Vishal Chhibber, Deputy Superintendent, Central Jail, Ambala, has been filed by the learned State counsel in Court and the same is taken on record. According to this certificate, the appellant has undergone actual custody of 04 years, 07 months and 22 days and custody of 04 years, 08 months and 12 days inclusive of remission. There is one other criminal case pending against him and may have been decided already. A conviction under the

Punjab Excise Act, 1914 is also reflected but sentence thereof has been already undergone.

8. Section 220(1) Cr.P.C. stipulates that in case more than one offence is committed through a series of acts so connected as to form the same transaction, only one trial in respect of these offences should be conducted. In the present case, after committing the offence of robbery, the accused fired at the police party when they thought they would be apprehended. Thus, in the process of trying to escape, the offence under section 307 IPC, was committed. The act of firing at the police party was done to escape apprehension and facilitate escape after doing the act of snatching money at gun point. All these acts are closely related and clearly form one transaction, that is snatching money at gun point and escaping with the loot. Thus, the said provision squarely applies in this case.

9. Had a single trial been conducted, the sentences imposed for the different offences would have been ordered to run concurrently.

10. It is also to be noted that after the commission of aforementioned offences, there is no complaint of subsequent offences. The appellant has undergone a protracted trial for a period of about 4 years and a period of 14 years has elapsed since his sentence was suspended. Keeping in view all these facts, I deem it appropriate to reduce the sentence of the appellant under section 397 IPC. Accordingly, his sentence under section 397 IPC is reduced to RI for a period of 07 years and it is directed that both the sentences of the appellant (in FIR No.240 dated 1.9.2000 and FIR No.269 dated 1.9.2000) shall run concurrently.

11. With the aforementioned observations, impugned judgments of conviction are maintained and the orders of sentence of the appellant stand modified. His appeals accordingly are partially allowed.

12. Copy of this judgment be sent to the successor Court of the trial Court concerned for compliance.

13. A photocopy of this order be placed in the file(s) of the other connected case(s).

(SUDHIR MITTAL)
JUDGE

23.5.2019

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No