

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Appeal No. S-1407-SB-2006 (O&M)
Date of decision : May 08, 2019

Labh Chand and others

....Appellants

versus

State of Punjab

....Respondent

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. NS Swaitch, Advocate, for the appellants

Mr. Rakeshinder Singh Sidhu, AAG, Punjab for the State

Mr. Deepak Gupta, Advocate, for the complainant

Fateh Deep Singh, J. (Oral)

Accused Labh Chand, Kulwant alias Bhalla, Sukhdev Singh alias Billa, Teja Singh alias Laddi, Dalbir Singh alias Sodhi, Balram, Jagmohan Singh, Jagdev Singh, Swami Purna Nand and Sambhu Nath were tried in a case bearing FIR No. 187 dated 25.10.2000, under Sections 307, 326, 323 read with Sections 149 and 148 IPC and 450 IPC, Police Station PS Sadar Kapurthala (Accused Jagmohan Singh died during the trial) and through its judgment order dated 20.7.2006 the court of learned Additional

Sessions Judge, Kapurthala acquitted accused Jagdev Singh, Swami Purna Nand and Shambu Nath Shastri of all the charges and convicted accused Labh Chand under Section 326 IPC. Accused Kulwant Singh alias Billa, Teja Singh, Sukhdev Singh, Dalbir Singh and Balram Singh had been convicted under Sections 323 and 452 IPC. Convict Labh Chand had been sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs 2000/- and in default of payment of fine, to further undergo RI for two months under Section 326 IPC. All the other convicts had been sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs 1000/- and in default of payment of fine, to further undergo RI for two months each under Section 452 IPC and further sentenced to undergo rigorous imprisonment for six months and to pay a fine of Rs 500/- and in default of payment of fine, to further undergo RI for one month each under Section 323 IPC. Unsatisfied with the findings, the convicts had come up in this criminal appeal before this Court.

Mr. NS Swaitch, learned counsel for the appellants at the very onset has submitted that out of the awarded sentence, the appellants have already undergone substantial period of incarceration and that vide compromise deed, Annexure A/1, the parties have effected compromise as there is version and cross-version in the present matter. It is further contended that the

appellants are suffering pangs of this prosecution since 25.10.2000 and thus for more than 18 years the Sword of Damocles is hanging over their heads. The appellants are first offenders and thus prayed for showing leniency by way of grant of concession of probation.

Though the learned State counsel does not disputes the fact of this long suffering by the appellants but has opposed the grant of the concession of probation on the grounds that they have taken law into their own hands and caused grievous injuries to the complainant side and therefore, are not entitled to any concession.

Appreciating the submissions for more than 18 long years the appellants had been suffering for this and have also undergone substantial period of incarceration and have also effected compromise between them. It is further worth while to note here that the court below in view of sentence of imprisonment so awarded had not considered grant of concession in terms of Section 360 Cr.P.C. which is legislated for the first time offenders with a view to ensure that they are not sent behind the bars and where they may go awry from the path of rectitude and become hardened criminals. Keeping in view all the circumstances including the compromise effected and that lone grievous injury is on non vital part, this Court finds it to be a fit case for releasing the appellants on probation. Accordingly, the appellants are ordered to be released on probation of good conduct

on furnishing probation bond to the satisfaction of learned trial Court/CJM in the sum of Rs 20,000/- with one surety of like amount upon undertaking to appear and receive sentence whenever called upon during the period of one year and in the meantime to keep peace and be of good behaviour. The fine amount imposed by the courts below shall be treated as cost of the proceedings. If probation bond is not furnished within two months, on receipt of copy of this order, the instant appeal shall be deemed to have been dismissed.

With modification in sentence as aforesaid, the appeal stands disposed of accordingly.

Since the private respondents have already suffered pangs of this prosecution for the last 18 years and the parties have also effected compromise, there is no ground for enhancement of sentence to Bakshish Singh and conviction of Kuldip Rai, Sadhu Ram and Subash Sharma since acquitted by the trial court. The revision petition bearing CRR-2274-2006, thus, being without any merit stands dismissed.

May 08, 2019
'tiwana'

(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No