

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : May 08, 2019

1. Criminal Appeal No. S-1559-SB of 2006 (O&M)

Bakshish SinghAppellant

versus

State of PunjabRespondent

2. Criminal Revision No. 2274 of 2006 (O&M)

Jagdev SinghPetitioner

versus

Bakshish Singh and othersRespondents

Coram: Hon'ble Mr. Justice Fateh Deep Singh

Present : Mr. Deepak Gupta, Advocate, for the appellant
Mr. NS Swaitch, Advocate, for respondent nos. 1 to 4
Mr. Rakeshinder Singh Sidhu, AAG, Punjab for the State/
respondent no. 5

Fateh Deep Singh, J. (Oral)

The aforesaid criminal appeal and criminal revision
petition are being disposed of by this common order as the same are
arising out of one and the same impugned judgment/order.

Accused Bakshish, Kuldip Rai, Sadhu Ram and Subash Sharma were tried in a case bearing FIR No. 187 dated 25.10.2000, under Sections 323, 324 read with section 34 IPC, Police Station PS Sadar Kapurthala and through its judgment order dated 20.7.2006 the court of learned Additional Sessions Judge, Kapurthala acquitted Kuldip Rai, Sadhu Ram and Subash Sharma of all the charges and convicted Bakshish Singh under sections 323 and 324 IPC and sentenced him 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 under section 324 IPC and further sentenced him 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 under section 323 IPC. Unsatisfied with the findings, the convict had come up in criminal appeal before this Court praying for his acquittal whereas complainant-Jagdev Singh had come up in criminal revision praying for enhancement of sentence awarded to Bakshish Singh and also for conviction of other accused Kuldip Rai, Sadhu Ram and Subash Sharma.

Mr. Deepak Gupta, learned counsel for the appellant at the very onset has submitted that out of the awarded sentence, the appellant has already undergone substantial period of incarceration and that the parties have effected compromise as there is version

and cross-version in the present matter. It is further contended that the appellant is suffering pangs of this prosecution since 25.10.2000 and thus for more than 18 years the Sword of Damocles is hanging over his head. The appellant is first offender 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 appellant but has opposed the grant of the concession of probation on the grounds that he has taken law into his own hands and caused injuries to the complainant side and therefore, is not entitled to any concession.

Appreciating the submissions for more than 18 long years the appellant had been suffering for this and has also undergone substantial period of incarceration and parties have also effected compromise. 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, this Court finds it to be a fit case for releasing the appellant on probation. Accordingly, the appellant is 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 court 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 bearing No. CRA-S-1559-SB-2006 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, no sufficient ground for enhancement of sentence awarded to Bakshish Singh and also for conviction of other accused Kuldip Rai, Sadhu Ram and Subash Sharma, since acquitted by the trial court is made out. The revision petition bearing CRR-2274-2006, thus, being without any merit stands dismissed.

May 08, 2019
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(Fateh Deep Singh)
Judge

Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No