

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

**CRA-S-823-SB-2004 (O&M)
Date of decision :30.05.2019**

Anang Pal and others

..... Appellants

VERSUS

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present:- Ms. Deepshikha Chauhan, Advocate and
Mr. KDS Hooda, Advocate, for the appellants.

Mr. Arun Beniwal, DAG, Haryana.

SUDHIR MITTAL, J.

According to the case of the prosecution, a VT was received on 4.5.2001 at Police Station Chhainsa from Escorts Medical Center, Faridabad regarding admission of Ranjit Singh son of Khem Singh and Man Singh son of Duli Chand with injuries. The Investigating Officer and other police officials went to hospital, but could not record the statements of the injured as the doctor had declared them unfit for getting their statements recorded. One Jawahar Singh who was also present got his statement recorded that the injured and the accused were part of the same marriage party and there was exchange of hot words between them. Others intervened and pacified both the parties. The complainant Jawahar Singh, Sarpanch Chander Pal and the injured persons then went to meet their relative and while they were seated on a cot in his chabutra, the accused persons came at 9.30/10.00 p.m. and inflicted a knife blow each on the shoulder of Man Singh and in the abdomen of Ran Singh.

2. The trial Court convicted the accused under section 307 r/w 34 Indian Penal Code (85 of 1860) (for short 'IPC') and sentenced them to undergo RI for a period of 07 years and to pay fine of Rs.5,000/- each in default of payment of fine, to further undergo RI for a period of 01 year each.

3. The instant appeal qua appellant No.2-Sanjeet son of Kishori Lal stood abated vide order dated 25.5.2016 as he passed away during its pendency on 19.8.2009.

4. Learned counsel for the appellants submits that the appellants have undergone a protracted trial of 03 years and thereafter, the appeal has been pending for the last 15 years. There is no complaint against them having committed any other offence after their conviction and sentence. Their sentence was suspended in the year 2006 and there is no allegation of violation of any conditions of bail. The appellants have reformed themselves. Moreover, appellant No.1 is in poor medical health and is of advanced stage. A reformatory approach may be adopted and maintaining the conviction, sentence be modified to that already undergone.

5. Learned State counsel had been directed to produce the latest custody certificates of the appellants and also to seek instructions regarding the medical condition of appellant No.1 Anang Pal. Consequently, custody certificate dated 23.5.2019, prepared by Sh. Kuldeep Kumar, Deputy Superintendent, District Prison, Gurgaon, has been filed by the learned State counsel regarding appellant No.1. According to this certificate, the said appellant has undergone actual custody of 01 year, 11 months and 05 days and there is no criminal case pending against him. In respect of Vipin Kumar appellant No.3, custody certificate dated 30.4.2019, prepared by

Mohmed Sazeed Khan, Deputy Superintendent, District Prison, Gurgaon, has been filed and according to this certificate, he has undergone actual custody of 01 year, 10 months and 13 days and there is no criminal case pending against him. Affidavit dated 23.5.2019 of Devender Singh, SHO, PS City Palwa, Distt. Palwal, has been filed regarding the medical condition of Anang Pal appellant No.1. The same is taken on record. According to this affidavit, appellant No.1 has been suffering from Paralysis for about 06 years and his age is about 70 years.

6. It is, thus, apparent that the appellants have undergone extended criminal prosecution as the trial lasted 03 years and their appeal has been pending for the last 15 years. There is no allegation that either of them violated any condition of their bail or that they indulged in criminal activities after their conviction and sentence in the present case. Appellant No.1 has been paralyzed for the last 06 years and is of advanced age being 70 years old. They have also undergone actual custody of about 02 years and thus, a reformatory approach needs to be adopted.

7. The appeal is thus, dismissed; impugned judgment of conviction of appellant Nos.1 and 3 is maintained, but their order of sentence is modified, sentencing them to the period already undergone by them.

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

(SUDHIR MITTAL)
JUDGE

30. 05.2019
Ramandeep Singh

Whether speaking / reasoned
Whether Reportable

Yes / No
Yes/ No