

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-2044-SB-2005
Date of Decision : 19.11.2019

Surinder Kumar and othersAppellants

VERSUS

State of Haryana..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

...

Present: Mr. Narinder Singh, Advocate
 for the appellants.

 Mr. Vikramjit Singh, Addl. A.G. Haryana.

 Mr. Dharminder Singh Randhawa, Advocate
 for the complainant.

...

MANJARI NEHRU KAUL, J.

The instant appeal has been preferred by the appellants against the impugned judgment of conviction dated 22.8.2005 and order of sentence dated 24.8.2005 passed by the Addl. Sessions Judge, Sirsa, vide which the accused/appellants were convicted under Sections 307, 326 and 323 read with Section 34 IPC and sentenced as under:-

<i>Under Section</i>	<i>Sentence</i>
307 read with Section 34 IPC	Rigorous imprisonment for seven years and fine of ₹ 1,000/- each and in default of payment of fine, to undergo further imprisonment for three months each.
326 read with Section 34 IPC	Rigorous imprisonment for five years and fine of ₹ 1,000/- each and in default of payment of fine, to undergo further imprisonment for three months each.

<i>Under Section</i>	<i>Sentence</i>
323 read with Section 34 IPC	Rigorous imprisonment for six months and fine of ₹ 500/- each and in default of payment of fine, to undergo further R.I. for two months each.

All the sentences were ordered to run concurrently.

The case of the prosecution is that on 11.02.2003 at about 1:40 P.M. complainant/injured Ram Kishan (PW7) made a statement before ASI Dharam Pal (PW9) that he had lent an amount of Rs.6500/- about a year ago to appellant-Manoj Kumar. Whenever the complainant would demand his money back from appellant-Manoj Kumar, he would put off the matter on one pretext or the other. On 10.02.2003 at about 11:00 A.M. when the complainant along with his younger brother Makhan Singh were going to their fields, appellant-Manoj Kumar met them on the way. Both the complainant and his brother again demanded back the money from him which infuriated appellant-Manoj Kumar who told them that he would repay the amount immediately. Saying this, he went to his shop and returned with his brothers i.e. appellants-Surinder Kumar and Narinder who were armed with a gandasa and a spear respectively while appellant-Manoj Kumar had a gandasa with him. After hurling filthy abuses, appellant-Manoj Kumar inflicted a gandasa blow on the head of the complainant. When the complainant raised his right hand to ward off the blow, the gandasa hit his fingers as a result of which his fingers were severed. Appellant-Narinder inflicted a spear blow on the person of Makhan Singh (PW8) hitting him on the left side of his chest. Appellant-Surinder Kumar also inflicted a gandasa blow on the left thigh of PW8 Makhan Singh. On an alarm raised by the complainant and his brother Makhan Singh, Vakil Chand and Bachan Singh were attracted to the spot. However, the appellants thereafter fled

away but not before threatening the complainant and his injured brother that

they would not be spared on the next available opportunity. The complainant also caused some minor injuries on the person of the assailants in his right of self defence. Vakil Chand after arranging a vehicle shifted the injured to General Hospital, Sirsa, for their treatment. On the statement of the injured PW7 Ram Kishan a case was registered under Sections 307, 326, 324, 323 and 506 read with Section 34 IPC.

On completion of the investigation, charge-sheet was filed against the accused/appellants for the aforesaid offences and as they pleaded not guilty, were brought to trial..

In support of their case, the prosecution produced and examined eleven witnesses. All the accused when examined under Section 313 (B) Cr.P.C. denied the charges and pleaded innocence.

In defence the appellants examined DW1 Raj Rani and DW2 Raghbir Singh.

The learned trial Court held them guilty under Sections 307, 326 and 323 read with Section 34 IPC and sentenced them as detailed above.

I have heard learned counsel for the parties.

At the very outset it has been submitted by the learned counsel for the appellants that in the wake of the findings of fact recorded by the learned trial Court, he would not press the instant appeal on merit and would confine his prayer qua the quantum of sentence only as the occurrence pertains to the year 2003 and the appellants have thus undergone the agony of protracted trial of almost 16 years . It has also been submitted that during the pendency of the appeal the parties have compromised the matter. The learned counsel for the appellants and the

complainant have in support of the compromise, filed a Panchayati Compromise annexed as Annexure A1 dated 29.02.2016 stating therein that the matter has been compromised between both the parties without any pressure from any quarter whatsoever.

Since Section 307 IPC is a non-compoundable offence the compromise arrived at between the parties would be of no avail to the accused/appellants as compounding of non-compoundable offence in the Indian Penal Code cannot be ordered. However, as far as the limited prayer of the appellants for reduction in sentence on the ground that they have undergone the agony of protracted trial of almost 16 years is concerned, the same deserves to be considered.

As per the Custody Certificates placed on record by the learned State counsel, the accused/appellants have undergone the following imprisonment:-

<i>S.No.</i>	<i>Name of the accused/appellant</i>	<i>Sentence undergone upto 03.11.2019</i>
1.	Surinder Kumar	01 year, 03 months and 12 days
2.	Narinder	02 years and 07 days
3.	Manoj Kumar	01 year, 09 months and 05 days

In view of the compromise effected between the parties as also the fact that the appellants have undergone the agony of a protracted trial for almost 16 years coupled with the fact that the appellants and the complainant party are co-villagers and have been leading a peaceful and disciplined life, while maintaining the conviction of the appellants under Sections 307, 326 and 323 read with Section 34 IPC, the sentence of rigorous imprisonment imposed upon the appellants under the aforementioned Sections is reduced to the period already undergone by them. There would be no modification with regard to sentence of fine.

Appeal is accordingly disposed of.

19.11.2019

rupi

Note: Whether speaking/reasoned
Whether Reportable:

(MANJARI NEHRU KAUL)
JUDGE

Yes / No
Yes / No