

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

**CRA-S-1809-2019 (O&M)
Date of Decision : 09.07.2020**

Rakesh Kumar @ Kesha

....Appellant

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.D.S.Adlakha, Advocate
for the appellant.

Mr.M.S.Dullat, Addl.A.G., Punjab.

TEJINDER SINGH DHINDSA, J.(ORAL)

Matter has been taken up through Video Conferencing via
WhatsApp facility in the light of the COVID-19 situation and as per
instructions.

With the consent of the counsel for the parties the main
appeal itself is taken up for final disposal today.

Instant appeal is directed against the judgment and order
dated 09.07.2018 passed by the learned Additional Sessions Judge,
Amritsar whereby the appellant stands convicted for offence
punishable under Sections 392, 341, 323, 201 read with Section 34
IPC and sentenced as under :-

Under Section	Sentence Awarded
392 read with section 34 of IPC	To undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.5,000/- and in default of payment of fine, he will further undergo rigorous imprisonment for a period of four months.
341 read with section 34 IPC	To undergo simple imprisonment for a period of one month.
323 read with section 34 IPC	To undergo imprisonment for a period of one year.
201 read with section 34 IPC	To undergo rigorous imprisonment for a period of one year.

Counsel for the appellant has at the very outset made a submission that the conviction is not being assailed on merits and the scope of the instant appeal is being confined only as regards the quantum of sentence.

Learned State counsel has, however, opposed the prayer by contending that the appellant is a habitual offender and as such does not deserve any leniency.

Counsel for the parties have been heard at length.

Since the judgment of conviction is not being assailed on merits, I do not deem it necessary to delve into the minute details of the case.

Suffice it to observe that the FIR had been registered on the complaint of Pardeep Kumar son of Ramesh Kumar and who stated that on 22.10.2015 at about 9.30 p.m. when he came out of his house along with a sum of Rs.1,25,000/- wrapped in a polythene cover the present appellant namely Rakesh Kumar @ Kesha and one Nikhil, who were residents of the same locality, accosted him and snatched the polythene cover containing the sum of Rs.1,25,000/-. Appellant Rakesh Kumar is stated to have given a *Datar* blow from its reverse side which hit the complainant on his left forearm. The complainant having raised a hue and cry, the accused fled away from the spot along with the polythene cover/bag containing the amount in question.

Having perused the judgment of conviction, this Court is of the considered view that the same does not suffer from any

infirmity. Prosecution has been able to prove the guilty of the accused/appellant herein beyond any shadow of doubt. Conviction of the appellant as such is maintained.

However, there are sufficient mitigating circumstances brought to the notice of this Court which would warrant interference as regards the sentence imposed.

As per custody certificate furnished by learned State counsel the appellant has undergone actual period of custody of 2 years 8 months and 5 days as on 22.06.2020 including period of custody as undertrial. The total sentence period reflected in the custody certificate including remissions is 3 years 5 months and 18 days against the substantive sentence imposed by the trial court of 4 years.

Appellant is stated to be a poor person and the sole bread winner of the family. He was granted bail during the course of trial and such concession was not misused by him.

In view of the above, the present appeal is disposed of while maintaining the conviction of the appellant and reducing the period of sentence to the period already undergone.

It is clarified that the benefit of this order shall enure to the appellant only upon deposit of the fine amount of Rs.5,000/- before the trial Court.

Appellant as such be released if not required in custody in any other case.

Appeal disposed of.

Pending application, if any, also stands disposed of.

09.07.2020
dss

(TEJINDER SINGH DHINDSA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No