

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRA-S-4259-SB of 2018 (O&M)

Date of Decision:.22.12.2022

Ashu @ Tunda

-----Appellant

vs.

State of UT Chandigarh

-----Respondent

Coram: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Parveen Sharma, Advocate (Legal Aid Counsel),
for the appellant
Mr. Charanjit Singh Bakshi, Addl. P.P.
For UT Chandigarh

JAGMOHAN BANSAL, J. (ORAL)

The appellant through instant appeal is seeking setting aside of judgment and order dated 05.09.2018/06.09.2018 whereby learned Additional Sessions Judge, Chandigarh has convicted the appellant and awarded sentence under different Sections of IPC. The appellant has been awarded sentence of 03 months under Section 323 IPC read with Section 34 IPC, 04 years with fine of Rs.1,000/- under Section 325 IPC read with Section 34 IPC and 05 years with fine of Rs.1,000/- under Section 458 IPC read with Section 34 IPC.

Custody certificate dated 22.12.2022 is taken on record.
Registry is directed to tag the same at appropriate place.

Learned counsel for the the appellant, at the outset, submits that as per custody certificate, the appellant has already suffered incarceration of 04 years and 04 months (There seems some mistake in the custody certificate disclosing 04 years, 03 months and 21 days). The appellant does not want to press the present appeal on merits and prays for conversion of

awarded sentence to already undergone. Learned counsel further submits that he is a legal aid counsel and is not in direct contact of the appellant-accused. The fine imposed is Rs. 2000/- and he is unable to ascertain whether fine has been paid or not. He further submits that appellant is a poor person and this Court may waive off fine, if not paid.

Learned State counsel submits that it is factually correct that after conviction in the present case, the appellant is not involved in any other case, however, on the earlier occasions, he was involved in many other cases of the similar nature.

Keeping in view :

- (i) the total sentence awarded is 05 years and the appellant has already undergone 04 years and 04 months;
- (ii) the appellant is a poor person which is evident from the fact that appellant is represented by a legal aid counsel;
- (iii) the appellant is in custody since the date of his arrest;
- (iv) the appellant is 30 years old;

this Court is of the considered opinion that it would be in the fitness of things, interest of justice and ends of justice would be secured if sentence awarded to the appellant is reduced to already undergone.

Accordingly, the sentence awarded to the appellant is reduced to the period already undergone and appellant is ordered to be released forthwith, if not required in any other case. The fine of Rs. 2000/-, if not paid, is waived off.

Appeal stands disposed of accordingly.

December 22, 2022
paramjit

(JAGMOHAN BANSAL)
JUDGE

Whether speaking or reasoned: Yes/No
Whether reportable :Yes/No