

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

206

CRR-4567-2017 (O &M)
Date of decision: 06.01.2022

VICKY

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE SANT PARKASH

Present : Mr. Sandeep Arora, Advocate
for the applicant-petitioner.

Mr. Tanvir Joshi, AAG, Punjab
for the respondent-State.

SANT PARKASH, J. (ORAL)

The case has been taken up for hearing through video conferencing.

The petitioner has preferred the instant petition being aggrieved of judgment dated 31.10.2017 passed by learned Sessions Judge, Jalandhar whereby appeal filed by him, challenging his conviction and order of sentence dated 17.12.2015, passed by the Principal Magistrate, Juvenile Justice Board, Jalandhar in case, FIR No.169 dated 02.09.2012 under Section 302 read with Section 34 of the Indian Penal Code, 1860 (for short 'the IPC'), Police Station, Basti Bawa Khel, Jalandhar has been upheld and appeal dismissed.

The aforesaid FIR was registered on statement of Tilak Raj who stated that he along with his brothers used to do welding works at their workshop i.e. Guru Nanak Electricals. On 02.09.2012, he along with his brother Chanchal Jassi had gone to work in the aforesaid workshop and they both returned home at about 5.00 P.M.

Thereafter, his brother Chanchal Jassi went to the market along with one Pala. On the same day, at about 8.30 P.M., he called his brother Chanchal Jassi, who did not respond to his telephonic call. Thereafter, he heard noise from Jathedar Pritam Singh Councillor who informed that one person with serious injuries on his person with his right wrist cut was being rushed to the Civil Hospital. The complainant along with his brother Mangat Ram and father Nath Ram reached the Civil Hospital where he found his brother Chanchal Jassi being succumbed to his injuries. During investigation, the petitioner along with his co-accused - Gagandeep alias Gagan were found to be involved in the occurrence and they were arrested.

After completion of investigation, final report under Section 173 Cr.P.C. was present in the court of competent jurisdiction. Finding a *prima face* against the accused (petitioner), he was charge-sheeted under Section 302 read with Section 34 of the IPC to which he pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined as many as eleven witnesses and evidence of prosecution was closed by order of the Board. Statement of accused (petitioner) was recorded under Section 313 Cr.P.C. apprising him of all incriminating circumstances appearing against him in prosecution evidence to which he claimed innocence and pleaded false implication.

In defence, the accused-juvenile examined two witnesses and thereafter, accused-juvenile closed the defence evidence.

At the very outset of arguments, learned counsel for the

applicant-petitioner has confined his arguments to the quantum of sentence only and did not challenge the conviction on merit. He prayed for a lenient view of the quantum of sentence.

Vide order dated 24.05.2019 passed by Co-ordinate Bench of this Court, the sentence of imprisonment of the petitioner was suspended and as per the custody certificate filed by the State counsel on that date, the petitioner had already undergone actual sentence of 2 years, 8 months and 15 days out of total awarded sentence of 3 years. FIR in the present case was registered on 02.09.2012. However, taking into consideration that there is a shortfall of only 3 ½ months (approximately), in my opinion, no useful purpose would be served by keeping him behind the bars to undergo a meager sentence of less than 4 months so as to make the total undergone sentence as three years. Rather, the said process would prove to be a cumbersome one, thereby causing unnecessary burden on the state exchequer as also harassment to the petitioner.

Accordingly, the conviction of the petitioner under Section 302 read with Section 34 of the IPC is maintained. However, sentence qua imprisonment of the petitioner, is reduced to the period already undergone by him. The petitioner be set at liberty forthwith, if not required in any other case.

The petition stands disposed of with the aforesaid order.

06.01.2022
kavneet singh

(SANT PARKASH)
JUDGE

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