

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRA-S-3780-SB-2017 (O&M)
Date of decision : 24.07.2023

Mardana Singh @ Dana Singh and another
.....Appellants

Versus

State of Punjab
..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.Jatinder Pal Singh, Advocate for the appellants
Mr.HS Sullar, Sr.DAG, Punjab

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 31.08.2017, passed by the learned Additional Sessions Judge, Faridkot, whereby the appellants were convicted and sentenced as under:

Accused-Mardana Singh @ Dana

Offence u/s	Imprisonment	Fine	Default sentence
307/34 IPC	RI for four years	Rs.5000/-	RI Six months
450 IPC	RI for three years	Rs.5000/-	RI six months
324/34 IPC	RI for three years	Rs.3000/-	RI six months

Accused Karamjit Singh @ Manna Singh

Offence u/s	Imprisonment	Fine	Default sentence
307/34 IPC	RI for four years	Rs.5000/-	RI Six months
324 IPC	RI for three years	Rs.3000/-	RI six months

All the sentences were ordered to run concurrently.

2. The facts, which are necessary for adjudication of the present case are that when on 21.05.2015, at about 7 pm complainant-Nar Singh was

bathing, accused Dana Singh entered his house and gave a kirch blow on left side of his stomach. When he raised a noise 'marta-marta', his brother Bhagwan Singh came at the spot and he tried to apprehend the accused, who however, ran away towards the street. In the meantime, accused-Manna Singh came across them holding a knife and caused injury on the left side of the chest of his brother Bhawan Singh, whereas accused Dana Singh also inflicted a kirch blow injury on the left side of the stomach of the complainant. On raising raula, the accused fled from the spot with their respective weapons. Thereafter, the injured were got admitted in GGS Medical College and Hospital, Faridkot and the FIR in question was registered.

3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused- petitioner. On finding a prima facie case, charges under Sections 279, 337, 338 and 304-A of the IPC were framed against him, to which he pleaded not guilty and claimed trial.

4. The prosecution in order to bring home the guilt of the accused examined as many as 11 PWs. On closure of the prosecution evidence, statement of the accused-petitioner was recorded under Section 313 of the Cr.P.C.. He denied all the incriminating circumstances that appeared against him in the prosecution case while pleading false implication by the police. He, however, did not examine any witness in his defence.

5. The learned trial Court after hearing the learned counsel for the parties, convicted and sentenced the accused as noticed in para 1.

6. Aggrieved accused-appellants have preferred the present appeal.

7. Learned counsel for the appellants, at the very outset, submits

that he does not wish to challenge the judgment of conviction and prays for reducing the sentence awarded to the appellants on account of the facts, that the matter stands compromised between the parties; appellant No.1 has undergone more than 1 year, 8 months, whereas appellant No.1 year 2 months out of the total sentence of 4 years awarded to them; are poor labourers; sole bread winner of their respective families; not involved in any other case and have been facing the agony of protracted trial since 2015.

8. On the other hand, learned State counsel submits that the trial Court after appreciating the evidence led by the prosecution, has rightly convicted and sentenced the appellants, therefore, prays for the dismissal of the present appeal.

9. Heard and perused.

10. Though, the appellants have not challenged the judgment of conviction, but this Court still deems it appropriate to examine the same. PW-1 Nar Singh, who was the injured-complainant in his deposition specifically named the appellants causing injuries to him as well as his brother Bhawan Singh. His testimony stood corroborated by PW-2 Bhawan Singh, to whom they had inflicted injuries with kirch. Dr.Amanpreet Kaur and Dr.Ishwar Tayal, GGS Medical College proved the MLRs of the injured. Thus, the trial Court has rightly convicted the appellant and there is no scope for interference in the findings recorded and conclusion arrived at. As such, the conviction of the appellants is upheld.

11. As regards the prayer made for reduction of sentence to the period already undergone in CRM-14360-2018 filed by the appellants that the matter stands compromised between the parties, this Court vide order dated 24.05.2018, had directed the parties to appear before the Chief Judicial

Magistrate, Faridkot to get their statements recorded regarding the same. In pursuance of the said order, vide letter dated 14.06.2018, CJM has sent his report wherein it has been recorded that “from the complainant, injured, and the petitioners’ statements before this Court, I am of the view that the compromise arrived between the parties is genuine, voluntary and with free consent. As per the record available with this Court, no accused has been declared proclaimed offender, in the matter of the FIR in question.”

12. The appellants are the poor labourers and the sole breadwinner of their respective families. Prior to the alleged offence and after release on bail, no offence was committed by them. Moreso, the matter stands compromised between the parties. They are facing the mental agony of trial since 2015.

13. Hon’ble The Supreme Court in **Badrilal v. State of M.P.**, (2005) 7 SCC 55, wherein the accused was convicted under Section 307/34 IPC and has undergone 14 months, reduced the sentence to the already undergone as the matter stands compromised between the parties.

14. In **Ishwar Singh v. State of M.P.**, (2008) 15 SCC 667, Hon’ble The Supreme Court held that, “it cannot be gainsaid that an offence punishable under Section 307 IPC is not a compoundable offence. Section 320 of the Code of Criminal Procedure, 1973 expressly states that no offence shall be compounded if it is not compoundable under the Code. At the same time, however, while dealing with such matters, this Court may take into account a relevant and important consideration about compromise between the parties for the purpose of reduction of sentence.”

15. In view of the above, this Court finds that the ends of justice would be adequately met, if the sentence of the appellants is reduced to the

period already undergone by them. Ordered accordingly. However, the sentence of fine shall remain intact.

16. With the aforesaid modification in the order of sentence dated 31.08.2017, the present appeal stands partly allowed.

24.07.2023
gsv

(AMAN CHAUDHARY)
JUDGE

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