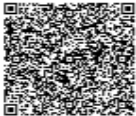


CRA-S-1853-SB-2003
CRA-S-1729-SB-2003

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2024:PHHC:065520



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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 10.05.2024

1. CRA-S-1853-SB-2003 (O&M)

Farat Ali

... Appellant

Vs.

State of Haryana

... Respondent

2. CRA-S-1729-SB-2003 (O&M)

Dinesh @ Pinchu and others

... Appellants

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. J.S. Hooda, Advocate
for the appellant (in CRA-S-1853-SB-2003).

Mr. Sukhandeep Singh, Advocate
for the appellants (in CRA-S-1729-SB-2003).

Mr. Vikas Bhardwaj, AAG, Haryana.



HARPREET SINGH BRAR, J. (ORAL)

1. This judgment shall dispose of aforementioned two appeals arising out of FIR No.22 dated 11.01.2020 under Sections 307, 324, 323, 148, 149 of the Indian Penal Code, 1860 (for short 'IPC') and Section 25 of the Arms Act, 1959 (for short 'the Act'), registered at Police Station Saran, District Faridabad, preferred against the judgment of conviction dated 25.08.2003 and the order of sentence dated 27.08.2003 passed by learned Additional Sessions Judge, Faridabad.

2. The appellants were convicted and sentenced under Sections 148, 324, 323 read with Section 149 of IPC and were ordered to undergo rigorous imprisonment for a period of two years and to pay a total fine of Rs.4,000/- along with default mechanism.

3. Brief facts of the case are that one Devender @ Bablu, resident of NIT, Faridabad was a student of B.Com 1st year at Delhi University. On 10.01.2000, he along with his friends Sanjay and Roopesh went to a dhaba to take meal and at about 09.30 p.m., when they were taking meal, Dinesh @ Pinchu along with two other persons came there and asked Roopesh to take meal for them. When the complainant objected to it, some altercation took place between them and thereafter, Dinesh @ Pinchu along with his companions left the dhaba, but after some time, they along with 8-10 persons came there in a three-wheeler and Dinesh @ Pinchu gave two knife blows to Roopesh and one another person gave him fist blows. When complainant



Devender @ Bablu and Sanjay tried to save Roopesh, two assailants caught hold of Sanjay and one of them attacked him with a knife, which hit on his neck on the right side. Thereafter, two young persons caught hold of the complainant and one of them gave him knife blows from his back, one blow hit on his left side and another blow of knife hit on his left arm and cheek. In the meantime, Yashpal and Sudesh Rana rescued them and thereafter, the complainant, Roopesh and Sanjay were admitted to B.K. Hospital, Faridabad by Rajesh son of Brij Nandan. On the statement of Devender @ Bablu, formal FIR was registered.

4. Learned counsel for the appellants, in their respective cases, contend that they are not assailing the impugned judgment of conviction dated 25.08.2003 on merits and restrict the prayer to modification of the order of quantum of sentence, to that of the sentence already undergone by the appellants, as appellant Farat Ali has already undergone a period of 02 months and 29 days, appellant Dinesh @ Pinchu has already undergone 03 months and 03 days, appellant Sonu Kumar has already undergone 01 month and 28 days, appellant Suneel @ Pappu has already undergone 01 month and 19 days and appellant Jagdish @ Jhaggar has already undergone 01 month and 08 days and they are not involved in any other criminal activity.

5. *Per contra*, learned State counsel opposes the prayer of the appellants, as learned trial Court has passed a well-reasoned judgment based on correct appreciation of evidence available on record and as such, they do



not deserve any leniency.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. In *Deo Narain Mandal Vs. State of UP, (2004) 7 SCC 257*, a three-Judge Bench of the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, the manner, in which the offence is committed, age of the accused, should be considered, while determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient. Further, a two-Judge Bench of the Hon'ble Supreme Court in *Ravada Sasikala Vs. State of AP, AIR 2017 SC 1166*, has reiterated that the imposition of sentence also serves a social purpose, as it acts as a deterrent by making the accused realise the damage caused not only to the victim, but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner, in which the crime was committed and



conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

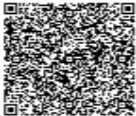
9. A perusal of the judgment of conviction passed by learned trial Court indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. Moreover, learned counsel for the appellants have not assailed the judgment of conviction on merits, rather they have restricted the prayer only qua quantum of sentence.

10. The FIR in the present case was lodged on 11.01.2000 and the appellants have been suffering the agony of trial since the last 24 years. Since their conviction, the appellants have grown into a law-abiding citizen and desire to live a peaceful life. As per their custody certificates dated 07/08.05.2024, the appellants are not involved in any other case and have undergone the sentence as stated above.

11. Accordingly, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the appellants is reduced to the period already undergone by them.

12. Consequently, both the appeals are disposed of in the following terms:-

- (i) The judgment dated 25.08.2003 passed by learned Additional Sessions Judge, Faridabad is upheld, however, the order of sentence dated 27.08.2003 is modified to the extent that the sentence of rigorous imprisonment for two years along with



default mechanism awarded to the appellants is reduced to the period of sentence already undergone by them.

- (ii) The sentence of fine of an amount of Rs.4,000/- each imposed upon the appellants by learned trial Court is increased to Rs.8,000/- each. The appellants are directed to deposit the increased amount of fine in learned trial Court within a period of one month from the date of receipt of certified copy of this order and in case of default of payment of fine, the appellants will be liable to be taken into custody and made to undergo rigorous imprisonment for one month.

13. All the pending miscellaneous application(s), if any, shall also stand disposed of.

[HARPREET SINGH BRAR]
JUDGE

10.05.2024
vishnu

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No