

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

103

CRA-S-1596-SB-2004 (O&M)
Date of decision : 29.01.2024

Lal Chand and another

.....Appellants

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Vishal R. Lamba, Advocate for the appellants.

Mr. Manipal Singh Atwal, DAG, Punjab.

Mr. Arun Kumar Goyat, Advocate for
Mr. Arshdeep S. Brar, Advocate for respondent No.3.

AMAN CHAUDHARY, J.

CRM-6380-2023

Learned counsel for the appellants has submitted that during the pendency of the present appeal, appellant No.1-Lal Chand has died.

Learned State counsel has produced a copy of the writing of the Panchayat, Hanumangarh, (which is taken on record as Mark A) also stating that besides Lal Chand even the complainant Raja Ram who is his real brother has also passed away.

Death certificates of appellant No.1-Lal Chand and respondent No.2/complainant-Raja Ram (Annexure A4 and A5) are taken on record, subject to all just exceptions.

Application stands disposed of.

Main Case

1. Challenge in the present appeal is to the judgment/order dated 08.07.2004, passed by the learned Additional Sessions Judge, Ferozepur, whereby appellants were convicted and sentenced as under:

Name	Offence u/s	Imprisonment	Fine	Default sentence
Lal Chand	307 IPC	RI for seven years	Rs.2000/-	RI for six months
Madan Lal	307/34 IPC	RI for seven years	Rs.2000/-	RI for six months

2. Shorn of unnecessary details, the facts are that, Raja Ram-complainant made a statement to the police that on 04.07.2001, when he alongwith his son were going to meet SHO Parkash, all the accused came there. A quarrel ensued between them. Lal Chand fired gun shots upon him. Thereafter, the injured was admitted in the Civil Hospital, Abohar. An FIR came to be registered against the accused.
3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused-appellants. On finding a prima facie case, charges under Section 307/34 IPC were framed against them, to which they pleaded not guilty and claimed trial.
4. The prosecution in order to bring home the guilt of the accused examined as many as 3 PWs. On closure of their evidence, statements of the accused were recorded under Section 313 of Cr.P.C. They denied all the incriminating circumstances that appeared against them in the prosecution case while pleading false implication by the police.
5. The learned trial Court after hearing the learned counsel for the parties, convicted and sentenced the accused-appellants as noticed above.
6. Aggrieved appellants are before this Court.
7. Since appellant No.1-Lal Chand is stated to be died, the present appeal qua him stands abated.
8. Learned counsel for appellant No.2-Madan Lal, at the outset, gives up challenge to the conviction and prays for reducing the sentence awarded to the said appellant to the period already undergone, it being 8 months and 21 day, on the ground that he belongs to the poor strata of the society; sole breadwinner of the

family; not involved in any other case; never misused the concession of bail and has been facing the agony of protracted trial for the last 20 years. Further, learned counsel states that a compromise was also entered between the parties, which is reflected in the order dated 29.04.2005 and affidavit of complainant Raja Ram, who had since passed away, was also placed on record as well as his son Ranbir, an eye-witness also filed his affidavit admitting the compromise, which was taken on record vide order dated 19.04.2023 as Annexure A7, besides the compromise deed dated 10.04.2023, Annexure A8.

9. 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 appellant No.2, therefore, prays for the dismissal of the present appeal. He, however, affirms the non-involvement of appellant No.2 in any other criminal case and the period undergone by him.

10. Heard the learned counsel on either side and perused the record.

11. Evidently, PW3-Raja Ram, complainant, in his deposition specifically named the appellants and their roles, having caused injuries to him, which stood corroborated by PW4-Ranbir. The MLR of the injured was also proved by PW2-Dr. Dayal Singh. On going through the evidence on record, the prosecution has proved the case against the appellants. Thus, the trial Court has rightly convicted the appellants, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, their conviction is upheld.

12. Insofar as the prayer for reducing the sentence of appellant No.2 to the period already undergone is concerned, it would be worthwhile to make a reference to the judgment in **Surinder Singh vs. State (UT of Chandigarh)**, 2021 SCC OnLine SC 1135, wherein the accused was convicted under Section 307 IPC and Hon'ble the Supreme Court reduced the sentence of three years to 3 months and 19

days, by considering that the occurrence took place in 1999 and he was not a habitual offender, rather a first-time convict.

13. Furthermore, in **Mohinder Singh and another vs. State of Punjab**, 1987 Supp SCC 65 the sentence of co-accused, convicted under Section 307 IPC, was modified by holding that no useful purpose will be served by sending him to jail after 12 years from the date of incident, in view of the fact that he was only 20 years old at that time.

14. In **Shankar Lal vs. State of Rajasthan** 1992(3) Crimes 411, the accused was convicted under Section 307 IPC and sentenced for three years, the High Court, by enhancing the fine, to be paid to the injured, reduced his sentence to the period already undergone by him, taking into consideration that he had not committed any other offence.

15. Humanistically viewing, appellant No.2 having suffered the ignominy of trial since long; successfully warded off his crime-proneness-an evident learning of a lesson; his socio-economic circumstances, this Court finds extenuation to be implicit. Thus, it would serve the ends of justice to reduce his sentence to the period already undergone, however, keeping the fine intact.

16. The order of sentence dated 08.07.2004 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

29.01.2024
ashok

(**AMAN CHAUDHARY**)
JUDGE

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