

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRA-S-1775-SB-2004 (O&M)
Date of decision : 30.01.2024

Gian SinghAppellant

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Baltej Singh Sidhu, Sr. Advocate with
Mr. Chandan Singh, Advocate for the appellant.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 30.08.2004, passed by the learned Additional Sessions Judge, Jalandhar, whereby appellant was convicted and sentenced as under:

Offence u/s	Imprisonment	Fine	Default sentence
307 IPC	RI for five years	Rs.5000/-	RI for one year
27 of Arms Act	RI for three years	Rs.1000/-	RI for two months

2. Shorn of unnecessary details, the facts are that, Surjit Singh-complainant made a statement to the police that on 26.04.1999, he and his friends were in the house of his in-laws. Meanwhile, accused-appellant Gian Singh entered the house and fired shot from his .12 bore pistol, which hit the right side of the stomach of one Jarnail Singh, who was shifted to the hospital. 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-appellant and the case of the accused-appellant was committed to the Court of Sessions. On finding a prima facie case, charges under Sections 307 IPC and Section 27 of Arms Act 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 his evidence, statement of the accused was recorded under Section 313 of Cr.P.C. He denied all the incriminating circumstances that appeared against him 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-appellant as noticed above.

6. Aggrieved appellant is before this Court.

7. Learned counsel for the appellant, at the very outset, gives up challenge to the conviction and prays for reducing the sentence awarded to the appellant to the period already undergone, it being 3 years 06 months and 08 days (including remission), on the ground that he represented India in the sport of football, later on he became a national coach; he was inducted in the Indian Army as a Sepoy; absolutely blind in the left eye and pseudophakia in right eye; sole breadwinner of his family; has children of marriageable age; not involved in any other case; never misused the concession of bail and has been facing the agony of protracted trial for the last 24 years.

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 appellant, therefore, prays for the dismissal of the present appeal. He, however, affirms the non-involvement of the appellant in any other criminal case and the period undergone by him.

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

10. Evidently, PW9-Surjit Singh, complainant, in his deposition specifically named the appellant and his role of having caused gunshot injury to Jarnail Singh, which stood corroborated by statement of PW10-Jarnail Singh. The MLR of the injured were also proved by PW1-Dr. Harjit Singh, PW6-Dr. Subhash Goyal and PW7

Dr. Ranbir Singh. On going through the evidence on record, the prosecution has proved the case against the appellant. Thus, the trial Court has rightly convicted the appellant, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, his conviction is upheld.

11. Insofar as the prayer for reducing the sentence of the appellants 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.

12. 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.

13. 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.

14. In **Surjit Singh vs. State of Punjab** in CRA-S-1749-SB-2004, decided on 13.03.2023, the sentence of the accused, convicted under Section 307 IPC, was modified by holding that age factor of the appellant, registration of no case of last more than 18 years and already undergone sentence of 2 years, 1 month and 12 days out of 7 years of custody and it was also a case of firearm injury on the frontal part of the person of injured.

15. This Court in **Baldev Singh vs. State of Haryana**, 2015 SCC Online P&H 17782, by following the dictum in **Nasir vs. State of Uttar Pradesh**, 2010 AIR (SC) 1926, and this Court in **Major Singh vs. State of Haryana**, 2013 (1) RCR (Criminal) 141 and **Jagdeep Singh @ Neetu vs. State of Punjab**, 2013 (3) Crimes 414 and considering the mitigating circumstances, reduced the sentence of the accused to the period already undergone by him. The relevant paras read thus:

“18. Of course, the Court is conscious of the minimum sentence of 3 years prescribed under Section 27 of the Arms Act. The Hon'ble Supreme Court in *Nasir v. State of Uttar Pradesh*, 2010 AIR (SC) 1926, and this Court in *Major Singh v. State of Haryana*, 2013 (1) RCR (Criminal) 141 and *Jagdeep Singh @ Neetu v. State of Punjab*, 2013 (3) Crimes 414 have taken a lenient view even in the face of minimum sentence prescribed under Section 25 of the Arms Act and reduced the sentence to the period already undergone in the special facts and circumstances of those cases.

19. Accused Baldev Singh has undergone 10 months and 26 days. Though he had intended to cause the death, he had caused injury on a non-vital part of the body. Further, he was just 26 years at the time when the occurrence took place. The occurrence had taken place in the year 2006. Sending accused Baldev Singh to jail again to undergo the unexpired portion of sentence imposed by the trial Court would definitely harm the peaceful life they had chosen to lead after burying their long enmity.

20. For all these reasons, the judgement of conviction passed by the trial Court as against accused Baldev Singh stands confirmed. But the sentence imposed on him is reduced to the period already undergone by him. The fine and the default sentence imposed by the trial Court for the offence under Section 307 IPC and Section 27 of Arms Act stand confirmed. If the fine amount is not paid within one month from the date of this judgement, accused Baldev Singh shall undergo the default sentence imposed by the trial Court for the respective offences.”

16. Humanistically viewing, the appellant 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.

17. The order of sentence dated 30.08.2004 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

30.01.2024
M.Kamra

(AMAN CHAUDHARY)
JUDGE

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