

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

102

CRA-S-1804-SB-2004 (O&M)
Date of decision : 24.01.2024

Kalu and others.....Appellants

Versus

State of Punjab..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Vivek Singla, Advocate for the appellants.
Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 31.08.2004, passed by the learned Additional Sessions Judge, Gurdaspur, whereby appellants were convicted and sentenced as under:

Accused Rinku			
Offence u/s	Imprisonment	Fine	Default sentence
307 IPC	RI for three years	Rs.1000/-	RI for six months
323 IPC	RI for four months	-	-

Accused Raju, Kalu, Anchit			
Offence u/s	Imprisonment	Fine	Default sentence
307 read with Section 34 IPC	RI for two years	Rs.1000/-	RI for six months
323 IPC	RI for four months	-	-

All the sentences shall run concurrently.

2. Shorn of unnecessary details, the facts are that, Narinder Singh-complainant made a statement to the police that on 12.08.2001, when he alongwith his brother and friend were returning to their home, all the accused came there. A quarrel ensued between them. Rinku and other accused caused blows to his brother and friend. Thereafter, the injured were admitted in the Civil

Hospital, Gurdaspur. 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 Sections 148/307/324/323/149 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 9 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, while acquitting the accused-appellants, convicted and sentenced the accused-appellants as noticed above.

6. Aggrieved appellants are before this Court.

7. The present appeal has been abated qua appellant No.3-Anchit son of Satish Kumar as in the order dated 23.03.2018, learned counsel had stated that appellant No.3 had died.

8. Learned counsel for the appellants, at the very outset, gives up challenge to the conviction and prays for reducing the sentence awarded to the appellants to the period already undergone, it being 1 month and 1 day, on the ground that they belong to the poor strata of the society; sole breadwinner of their families; not involved in any other case; never misused the concession of bail and have been facing the agony of protracted trial for the last 23 years.

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 the appellants, therefore, prays for the dismissal of the present appeal.

He, however, affirms the non-involvement of the appellants in any other criminal case and the period undergone by them as per the custody certificates.

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

11. Evidently, PW1-Narinder Singh, complainant, in his deposition specifically named the appellants and their roles, having caused injuries to his brother and friend, which stood corroborated by PW2-Ravinder Singh and PW3-Lucky. The MLRs of the injured were also proved by PW5-Dr. Jasneet Singh Bhullar and PW6-Dr. Ramandeep Singh. On going through the evidence on record, the prosecution has proved the case against the appellants. Thus, there is no scope for interference in the findings recorded and conclusion arrived at by the trial Court. As such, their conviction is upheld.

12. 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.

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. Similarly in **Arjun and Others vs. State of Haryana**, CRA-S-1134-SB-2008, decided on 07.06.2023, the sentence awarded to the accused-appellants, who were convicted under Sections 323/34, 325/34 and 506 IPC for RI of 2 years, was reduced to the extent of already undergone, while observing that the appellants had already suffered sentence of 1 month, 13 days and 15 days respectively and faced the agony of trial for almost 17 years.

15. This Court, considering the judgments referred to above and the mitigating circumstances as pointed out by learned counsel for the appellants, finds that the ends of justice would be adequately served if the sentence of appellants is reduced to the period already undergone by them, while keeping the fine intact.

16. The order of sentence dated 31.08.2004 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

24.01.2024
ashok

(AMAN CHAUDHARY)
JUDGE

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