

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

105

CRA-S-2064-SB-2004 (O&M)
Date of decision: 31.01.2024

Dinesh and Others

....Appellants

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Sagar Aggarwal, Advocate for the appellants

Mr. Jagdish Manchanda, Addl. AG Haryana

AMAN CHAUDHARY. J.

1. Challenge in the present appeal is to the judgment/order dated 25.09.2004, passed by the learned Additional Sessions Judge, Kurukshetra, whereby appellants were convicted and sentenced as under:

Accused Ashok Kumar and Satish Kumar			
Offence u/s	Imprisonment	Fine	Default sentence
307 IPC	RI for seven years	Rs.4000/- each	RI for six months

Accused Dinesh and Bharat Bhushan			
Offence u/s	Imprisonment	Fine	Default sentence
324 read with 34 IPC	RI for two years	Rs.1500/- each	RI for two months

2. Succinctly the facts are that, Rakesh Kumar-complainant made a statement to the police that on 03.10.1999, he along with his father-Prithvi Singh and brother Dinesh Kumar were standing in the street, then Ashok Kumar along with other co-accused came there and had inflicted knife blows and sickle blows

to them. On the basis of the said statement, an FIR came to be registered against the accused persons.

3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused-appellants and on finding a prima facie case, charges under Sections 324, 307 read with Section 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 15 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. Learned counsel for the appellants, at the outset, gives up challenge to the conviction and prays for reducing the sentence awarded to the appellant Nos.1 to 4 to the period already undergone, it being 7 months and 4 days of appellant-Dinesh Kumar, 11 months and 12 days of appellant-Bharat Bhushan, 1 year, 3 months and 12 days of appellant Ashok Kumar and 11 months and 13 days of appellant-Satish Kumar, on the ground that they are sole breadwinners of their family; poor strata of the society; not involved in any other case; never misused the concession of bail and have been facing the agony of protracted trial for the last 24 years.

8. Learned counsel further submits that insofar as the case of appellant

Nos.5 and 6 are concerned, they had already been released on probation by the learned trial Court.

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 appellant No.1 to 4, 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.

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

11. Evidently, PW11- Rakesh Kumar, complainant, in his deposition specifically named the appellants and their role of having caused knife blows to the appellant and two other persons, which stood corroborated by statements of other material witnesses i.e. PW12-Prithvi Singh and PW13-Dinesh Kumar. The MLR of the injured were also proved by PW9-Dr. O.P. Gogia. On going through the evidence on record, the prosecution has proved the case against the appellants. Thus, the trial Court has rightly convicted the appellant Nos.1 to 4, 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 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.

15. In **Satish vs. State of U.P.**, (2021) 14 SCC 580, Hon'ble the Supreme Court had observed that, "Whilst it is undoubtedly true that society has a right to lead a peaceful and fearless life, without free roaming criminals creating havoc in the lives of ordinary peace loving citizens. But equally strong is the foundation of reformatory theory which propounds that a civilised society cannot be achieved only through punitive attitudes and vindictiveness; and that instead public harmony, brotherhood and mutual acceptability ought to be fostered. Thus, first time offenders ought to be liberally accorded a chance to repent their past and look forward to a bright future. [Maru Ram v. Union of India, (1981) 1 SCC 107 : 1981 SCC (Cri) 112]".

16. Humanistically viewing, the appellant Nos.1 to 4 having suffered the ignominy of trial since long; successfully warded off their crime-proneness-an evident learning of a lesson; their socio-economic circumstances, this Court finds extenuation to be implicit. Thus, it would serve the ends of justice to reduce their sentence to the period already undergone, while enhancing the fine from Rs.4,000/-

and Rs.1,500/- respectively to Rs.10,000/- each, which shall be paid to the injured by appellant Nos.1 to 4 in this case as compensation under Section 357 CrPC, within a period of two months, failing which, the present appeals shall deem to have been dismissed.

17. The order of sentence dated 25.09.2004 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

(AMAN CHAUDHARY)
JUDGE

31.01.2024

M.Kamra

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