

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

112

CRA-S-2297-SB-2004 (O&M)
Date of decision: 01.02.2024

Mohinder Singh and others

..... Appellants

Versus

State of Haryana

..... Respondent

CRA-S-2251-SB-2004 (O&M)

Gurcharan Singh and others

..... Appellants

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sagar Aggarwal, Advocate for the appellants in
CRA-S-2297-SB-2004.

Mr. Lovejeet Poonia, Advocate for appellant Nos.1, 4 to 10 in
CRA-S-2251-SB-2004.

Appeal i.e. CRA-S-2251-SB-2004 qua appellant Nos.2 and 3
stands abated vide order dated 04.08.2022.

Appeal i.e. CRA-S-2297-SB-2004 qua appellant Nos.2, 8 and 14
stands abated vide order dated 06.07.2022.

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

1. Challenge in the present appeals is to the judgment/order dated 29.10.2004/04.11.2004, passed by the learned Additional Sessions Judge, Kurukshetra, whereby appellants were convicted and sentenced as under:

Accused-appellants in CRA-S-2297-SB-2004			
Offence u/s	Imprisonment	Fine	Default sentence
148 IPC	RI for one year	-	-
307 read with 149 IPC	RI for three years	Rs.3000/-	RI for six months

Accused-appellants in CRA-S-2251-SB-2004			
Offence u/s	Imprisonment	Fine	Default sentence
148 IPC	RI for one year	-	-
326 read with 149 IPC	RI for two years	Rs.1000/-	RI for three months

All the sentences shall run concurrently.

2. Succinct facts at first. On 16.09.1999, injured-Manoj Kumar made a statement to the police that when he alongwith his family members were ploughing the land, all the accused came there. A quarrel ensued between them. Mohinder Singh and other accused caused blows to them. Thereafter, the injured were admitted in 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-appellants. On finding a prima facie case, charges under Sections 148, 324, 326, 448, 506 read with Section 149 IPC were framed against the appellants in CRA-S-2251-SB-2004 and Sections 148, 307, 326, 325, 324, 323 read with Section 149 IPC were framed against the appellants in CRA-S-2297-SB-2004 and Section 27 of the Arms Act also against appellant No.3-Gurdial Singh, 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 22 PWs and 8 PWs in CRA-S-2297-SB-2004 and CRA-S-2251-SB-2004 respectively. 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. In defence, the accused examined 4 DWs and 8 DWs in CRA-S-2297-SB-2004 and CRA-S-2251-SB-2004 respectively.
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 very outset, give up challenge to the conviction and pray for reducing the sentence awarded to the appellants in CRA-S-2297-SB-2004 (except the appellants, who have since expired) to the period already undergone, it being 23 days; 1 month, 16 days; 24 days; 2 months, 4 days; 1 month, 17 days; 1 month, 25 days; 7 days; 1 month, 6 days; 1 month, 5 days; 20 days; 10 days respectively; and appellants in CRA-S-2251-SB-2004 (except the appellants, who have since expired) to the period already undergone, it being 7 days of appellant Nos.1, 4, 5, 6 and 9 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; related to each other; residing in the same vicinity; compromise was also arrived at between them and have been facing the agony of protracted trial for the last 25 years. They have also submitted that the accused-appellants are ready to compensate the injured.

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

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

10. Evidently, PW1-Manoj Kumar, injured, in his deposition specifically named the appellants-Mohinder Singh and others and their roles, having caused injuries to him and his family members, which stood corroborated by PW3-Tejpal. The MLRs of the injured were also proved by PW11-Dr. Suman Chauhan. 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.

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 **Keshab Naskar vs. State**, 2012 SCC OnLine Cal 9400, wherein keeping in view that 25 long years had since elapsed from the date of the incident, never misused the privilege of post-conviction bail, the sentence of imprisonment under Section 326 IPC of 6 years was reduced to the the period already undergone i.e. 14 days pre-trial and about a month and 10 days post-trial. In **Lehamber Singh vs. State of Punjab**, 2016 SCC OnLine P&H 8926, this Court had, in a case of conviction under Section 326 IPC, in consideration of the circumstances that the accused had faced the agony of protracted trial for the last more than 10 years; was a first offender; sole bread earner in the family; no antecedents of similar nature, taken a lenient view furthering the cause of justice and reduced the sentence from one year and a half to the period of one month and thirteen days, already undergone.

12. As regards, conviction under Section 325 IPC is concerned, a reference can be made to **Ram Kumar and Another vs. State of Haryana** in Criminal Appeal No.104 of 2022, decided on 19.01.2022, wherein the appellants had given lathi blows and were thus convicted under Sections 323/325, however Hon'ble the Supreme Court while considering the fact that 14 years had elapsed since the date of incident, reduced their sentence to the period already undergone by them i.e. six weeks out of 1 year. Further, in **Nakchhed vs. State of U.P.**, 1998 SCC (Cri) 603, the accused was convicted under Section 325 IPC, Hon'ble the Supreme Court reduced the sentence to the period already undergone out of 3 years of rigorous imprisonment, by observing that 8 years had passed away and

during this period, all the wounds of the parties have healed up and no purpose would be served to sending the accused behind bars.

13. Hon'ble The Supreme Court in **Manjappa vs. State of Karnataka**, (2007) 6 SCC 231, wherein the accused was convicted and sentenced under Sections 325, as he had assaulted the complainant with a stone, while observing that the appellant had undergone and had remained in custody for about 15 days as also that after the incident 10 years had passed, held that the sentence already undergone by the appellant was sufficient and adequate in the facts and circumstances of the case.

14. In **Mohamad Hanif @ Munno Hussainmiya Shaikh vs. State of Gujarat** (2019) 01 SC CK 0378, the appellant was convicted under Section 325 IPC for a sentence of imprisonment of 2 years for giving a stick blow on the head of the complainant, which was reduced to 1 year by the Appellate Court. The sentence was converted to already undergone, which was one and a half month as the incident had occurred more than 22 years back and that the injury was found to be simple in nature.

15. This Court in **Pardeep Kumar vs. State of Punjab**, CRR-340-1992 decided on 31 January 2008, where the accused was convicted under Section 325 IPC, reduced the sentence to already undergone, i.e. 16 days out of maximum punishment of 4 months of rigorous imprisonment, as the petitioner had faced the agony of trial for 19 years. 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.

16. In **Surinder Singh vs. State (UT of Chandigarh)**, 2021 SCC OnLine SC 1135, 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.

17. 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.

18. 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.

19. 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.”

20. Humanistically viewing, the appellants 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 in CRA-S-2297-SB-2004 from Rs.3,000/- to Rs.10,000/- each, which shall be paid to the injured, namely, Manoj Kumar, Tejpal, Mangat Ram, Balbir Singh and Ram Singh and in CRA-S-2251-SB-2004 from Rs.1000/- to Rs.5000/- each, which shall be paid to the injured 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.

21. The order of sentence dated 04.11.2004 is modified to the aforesaid extent and as such, the present appeals stand partly allowed.

22. Photocopy of this order be placed on the connected files.

01.02.2024
ashok

(AMAN CHAUDHARY)

JUDGE

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No