

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRA-S-2356-SB-2004 (O&M)
Date of decision: 02.02.2024

Rajwant Singh and Another

....Appellants

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Tarundeep Kumar, Advocate for the appellant No.1

Appeal qua appellant no.2-Milkha Singh, who died on 02.06.2011,
stands abated vide order dated 07.08.2023.

Mr. Manipal Singh Atwal, DAG Punjab

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 18.11.2004, passed by the learned Additional Sessions Judge, Amritsar, whereby appellants were convicted and sentenced as under:

Accused Rajwant Singh			
Offence u/s	Imprisonment	Fine	Default sentence
307 IPC	RI for five years	Rs.1000/-	RI for one month
325/34 IPC	RI for one year	-	-

Accused Milkha Singh			
Offence u/s	Imprisonment	Fine	Default sentence
307/34 IPC	RI for five years	Rs.1000/-	RI for one month
325 IPC	RI for one year	-	-

2. Shorn of unnecessary details, the facts are that, Surjit Singh-complainant made a statement to the police that on 09.06.2003, he along with Amrik Singh were going towards their fields, then accused-appellants came there

and accused Rajwant Singh had fired a shot, which hit the right flank and other accused gave dang blows to him as also his father Kapoor Singh. Thereafter, they were admitted in the Civil Hospital, Patti. 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 the case of the accused-appellants was committed to the Court of Sessions. On finding a prima facie case, charges under Sections 307, 336, 325, 148 and 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 10 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. The present appeal has been abated qua Appellant No.2-Milkha Singh as in the order dated 07.08.2023, learned counsel for the appellants had stated that appellant No.2 had been died.

8. Learned counsel for appellant No.1, at the outset, gives up challenge to the conviction and prays for reducing the sentence awarded to the appellant to the period already undergone, it being 1 year 5 months and 3 days (including remission), on the ground that the appellant has old mother, wife, 2 sons and daughter-in-laws; 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. He has also submitted that the accused-appellant is ready to compensate the injured.

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, 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.

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

11. Evidently, PW4-Surjit Singh, complainant, in his deposition specifically named the appellants and their roles of having caused injuries to him and his father-Kapoor Singh, which stood corroborated by statements of PW10-Kapoor Singh, who was also injured in the occurrence. The MLR of the injured were also proved by PW2-Dr. Jatinder Nath Mehta. 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.

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. 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 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, while enhancing the fine from Rs.1,000/- to Rs.25,000/-, which shall be paid to the injured namely Surjit Singh and Kapoor Singh by the appellant in this case as compensation under Section 357 CrPC, within a period of two months, failing which, the present appeal shall deem to have been dismissed.

17. The order of sentence dated 18.11.2004 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

(AMAN CHAUDHARY)
JUDGE

02.02.2024
M.Kamra

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