

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

110

CRA-S-2364-SB-2004 (O&M)
Reserved on: 20.01.2024
Pronounced on: 23.01.2024

Nirmal Singh @ Thumi

.....Appellant

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Arvind Moudgil, 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 02.03.2004, passed by the learned Additional Sessions Judge, Sangrur, whereby appellant was convicted and sentenced as under:

Offence u/s	Imprisonment	Fine	Default sentence
307 IPC	RI for five years	Rs.5000/-	RI six months

2. Shorn of unnecessary details, the facts are that, Gurdip Singh-complainant made a statement to the police that on 15.07.2002 at 8.30 am, when he alongwith his family members and one Jasbir Singh were talking with each other in front of their house, Ram Singh and his son Nirmal Singh @ Thumi came there. A quarrel ensued between them. Nirmal Singh @ Thumi caused blows to him and he was saved by his wife, son and another person. Thereafter, he was admitted in the Civil Hospital, Jakhal. 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-Ram Singh and the

appellant. On finding a prima facie case, charges under Sections 307/323/34 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 6 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-Ram Singh, 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, 1 month and 6 days, on the ground that he belongs to the poor strata of the society; sole breadwinner of his family; not involved in any other case; never misused the concession of bail and have been facing the agony of protracted trial for the last 22 years. He has also submitted that the appellant is 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 appellant, therefore, prays for the dismissal of the present appeal. He, however, as per the custody certificate 19.01.2024, which is taken on record, 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, PW3-Gurdip Singh, who was the injured, in his deposition specifically named the appellant and his role, having caused injuries to him, which

stood corroborated by his wife, PW-4 Paramjit Kaur, who was an eye witness to the occurrence. The MLR of the injured was also proved by PW2- Dr. Satish Garg, Medical Officer, General Hospital, Tohana. 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 appellant 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. Reverting to the facts of the present case as regards the prayer made on behalf of the appellant is concerned, this Court considering the judgments referred to above and the mitigating circumstances as pointed out by learned

counsel for the appellant, finds that the ends of justice would be adequately served by reducing the sentence of the appellant to the period already undergone while enhancing the fine from Rs.5,000/- to Rs.15,000/-, out of which Rs.10,000/- shall be paid to the injured as compensation under Section 357 CrPC, within a period of two months, failing which, the present appeal shall deem to have been dismissed.

15. With the above modification in the order of sentence dated 02.03.2004 passed by the learned Additional Sessions Judge, Sangrur, as noted above, the present appeal stands partly allowed.

23.01.2024
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned

:

Yes / No

Whether reportable

:

Yes / No