

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

103-2 cases

CRA-S-2426-SB-2004 (O&M)
Date of decision: 02.02.2024

Veer Bhan and another

Versus

....Appellants

State of Haryana

...Respondent

CRR-1253-2005 (O&M)

Raj Kumar

Versus

....Appellant

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. JS Dahiya, Advocate
for the appellants in CRA-S-2426-SB-2004.

Mr. Sanjeev K. Sharma, Advocate
for the petitioner in CRR-1253-2005.

Mr. Jagdish Manchanda, Addl. A.G., Haryana.

AMAN CHAUDHARY, J.

1. This common order shall dispose of the above-mentioned criminal appeal and revision, as the same issues are involved therein.
2. Challenge in CRA-S-2426-SB-2004, filed by the accused-appellants is to the judgment/order dated 20.11.2004/23.11.2004, passed by the learned Additional Sessions Judge (Adhoc), Fast Track Court, Kurukshetra, whereby appellants were convicted and sentenced as under:

Offence u/s	Imprisonment	Fine	Default sentence
307/34 IPC	RI for seven years	Rs.1000/-	RI for six months

3. The complainant-Raj Kumar has also filed CRR-1253-2005, for enhancing the punishment awarded to the accused-appellants as well as compensation.
4. Shorn of unnecessary details, the facts are that, Raj Kumar-complainant made a statement to the police that on 29.09.2002, he along with brother Krishan Lal were present in their fields, then accused-appellants came there and gave a gandasi blow on the head of his brother. Thereafter, he was admitted in the LNJP Hospital, Kurukshetra. An FIR came to be registered against the accused persons.
5. 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 307/34 IPC were framed against them, to which they pleaded not guilty and claimed trial.
6. The prosecution in order to bring home the guilt of the accused examined as many as 09 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.
7. The learned trial Court after hearing the learned counsel for the parties, convicted and sentenced the accused-appellants as noticed above.
8. Aggrieved accused as well as complainant are before this Court.

9. Learned counsel for the accused, at the outset, gives up challenge to the conviction and prays for reducing the sentence awarded to the appellants to the period already undergone, particularly, on account of the facts that the matter stands compromised between the parties (Annexure A-2) alongwith affidavit (Annexures A2, A3 and A4) and also that appellants belongs to the poor strata of the society; sole breadwinner of the family, appellant No.1 has undergone 04 months and 14 days (including remission) while No.2, 01 year, 09 months and 22 days (including remission), 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. To buttress his submission, reliance is placed on the judgment of the Hon'ble Supreme Court of India in **State of Madhya Pradesh vs. Laxmi Narayan and others** 2019(2) R.C.R. (Criminal) 255. Further, he placed reliance on the judgment of this Court in **Satbir Singh and others vs. State of Haryana**, CRA-S-691-SB-2001, decided on 21.10.2015.

10. Learned counsel for the petitioner-complainant in CRR-1253-2005 submits that he has no objection to the prayer made as the matter stands compromised, thus, does not press the petition.

11. 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.

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

13. Evidently, PW7-Raj Kumar, complainant, in his deposition specifically

named the appellants and their roles of having caused injuries to his brother Krishan Lal, which stood corroborated by statement of PW8- Krishan Lal himself, who was injured in the occurrence. The MLR of the injured were also proved by PW1-Dr. C.R. Khatri. On going through the evidence on record, the prosecution has proved the case against the appellants. Thus, the trial Court has rightly convicted the appellants, therefore, there is no scope for interference in the findings recorded and conclusion arrived at. As such, their conviction is upheld.

14. 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.

15. 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.

16. 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.

17. 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.”

18. 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]”.

19. 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, however, keeping the fine intact.

20. The order of sentence dated 20.11.2004/23.11.2004 is modified to the aforesaid extent and as such, the present appeal i.e. CRA-S-2426-SB-2004 stands partly allowed. However, the revision petition i.e. CRR-1253-2005 filed by the complainant-petitioner is hereby dismissed, as not pressed.

21. Photocopy of this order be placed on the file of the connected case.

(AMAN CHAUDHARY)
JUDGE

02.02.2024

Hemant

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