

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.230

CRA-S-354-2023 (O&M)
Date of Decision: 11.01.2024

Udham Singh ...Appellant
vs.
State of Haryana ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present : Mr. Baljeet Beniwal, Advocate
for the applicant-appellant.

Ms. Sheenu Sura, Deputy Advocate General, Haryana.

N.S.Shekhawat J.

1. On oral request made by learned counsel for the applicant-appellant, the main case is ordered to be taken up on Board today for final disposal.
2. The present appeal is directed against the judgment of conviction and order of sentence dated 23.01.2018 passed by the Court of Additional Sessions Judge, Palwal, whereby the present appellant was convicted for the offences punishable under Sections 120-B and 395 of IPC and was sentenced as mentioned below:-

Under Section 120-B IPC	Rigorous imprisonment for a period of seven years and to pay a fine of Rs.5,000/-. In default of payment of fine, he shall further undergo rigorous imprisonment for five months.
Under Section 395 IPC	Rigorous imprisonment for a period of seven years and to pay a fine of Rs.5,000/-. In default of payment of fine, he shall further undergo rigorous

imprisonment for five months.

3. At the very outset, learned counsel for the appellant submits that the appellant has already undergone more than 06 years, 09 months and 12 days of actual sentence out of total sentence of 07 years and does not wish to challenge the judgment of conviction and prayed that leniency may be shown in the matter while awarding the sentence to the present appellant. Even though there is no challenge to the conviction of the appellant, still further this Court has examined the merits of the case and would proceed to discuss the evidence led by the parties.

4. The FIR in the present case was got registered on the basis of the complaint moved by Gajender son of Rang Lal and the same has been reproduced below:-

On 02.05.2016 at around 12.30 PM, he being manager of Akash Filling Station along with co-employee Lokesh was taking cash of the petrol pump to Palwal in a white colour Santro car bearing registration no. HR 29X 4118. When they reached near Munyara chowk, a silver colour Innova car bearing registration No. HR 26B 3306, occupied by 3-4 youths over took their car. The driver brought the Innova car ahead of their car, out of which the youths alighted and started hitting their car with dandas and snatched away the bag containing Rs. 10 Lacs after opening the conductor side window of their car and prayed for penal action against the culprits and to recover the snatched amount. On its basis, a formal FIR has been registered. Investigation has been launched. The accused were arrested in cases bearing FIR no.165, dated 24.5.2016, under sections 399, 402 IPC & 25 of the Arms Act, PS Nasirabad Sadar, District Ajmer (Rajasthan) and FIR 173, dated 28.3.2016, under sections 364, 384, 342, 506 IPC & 25 of the

Arms Act, PS Sadar Palwal, wherein they suffered disclosure statements admitting their involvement in the instant case. Ultimately, they were arrested on 18.6.2016. On interrogation, they suffered disclosure statements, on the basis of which, section 379A IPC was deleted, however, sections 395 and 120-B IPC were added. After demarcating the place of occurrence, accused Raju Bhati alias Dhillu got recovered Rs.88,500/-, one Adhaar card and DL of complainant Gajender, accused Arshad alias Kala got recovered Rs.83,000/-, accused Ved Pal alias Vedu got recovered Rs.61,500/- and accused Udham got recovered Rs.66,000/- and one I Card. On completion of legal formalities of investigation, challan was laid before the court of Illaqua Magistrate for initiation of trial and then committed to the Sessions Court and assigned to this court for disposal, in accordance with law.

5. After the framing of charges, an ample opportunity was given to the prosecution to prove its case. The prosecution examined ASI Ranvir Singh, who was the initial I.O, who along with Gajender, complainant and Lokesh reached at the spot and prepared site plan Ex.PW-1/D on the demarcation of the complainant and thereafter, the case was sent to CIA Palwal for further investigation. The prosecution examined Gajender Singh, complainant as PW-2 and Lokesh as PW-3, who supported the case of the prosecution on medical particulars and even reiterated their statements sent to the police. PW-4 HC Bhupender Singh had interrogated the accused and they had suffered their disclosure statements Ex.PW-4/A to Ex.PW-4/D in his presence. He handed over the investigation to ASI Sahid Ahmad. The prosecution examined ASI Sahid Ahmad as PW-5, in whose presence the accused had suffered their statements. The prosecution further examined PW-6 Ravinder Singh Dahiya, Draftsman and Constable Jai Parvesh as PW-7, who also supported the case of

the prosecution. The prosecution further examined PW-8 Tejasvi Gautam,IPS and PW-9 SI Sugan Singh, who proved the various documents.

6. I have heard learned counsel for the parties and perused the record.

7. The Trial Court had rightly observed that the statements of PW-2 Gajender Singh, complainant and PW-3, Lokesh were truthful and they had supported the case of the prosecution. Apart from that, PW-4 HC Bhupender Singh and PW-6 Ravinder Singh Dahiya made statements and proved the recovery made from the appellant and other co-accused. Still further, the statements of the eye-witnesses were duly corroborated by the Investigating Officer and on findings sufficient evidence the appellant and his co-accused were convicted by the Trial Court.

8. From the above, it is apparent that the Trial Court had duly appreciated the evidence on record in the light of settled law. Still further, the prosecution had been able to prove the offence under Section 395 and 120-B of IPC against the respondent/accused and the impugned judgment does not suffer from the vice of some illegality, irregularity or perversity.

9. Now adverting to the order of sentence, it is observed that vide the impugned order of sentence, the appellant has been sentenced as mentioned above. As per the custody certificate produced during the course of hearing, the appellant has undergone more than 06 years of actual sentence. However, he is facing the agony of the trial/appeal for the last more than 07 years and no purpose would be served by sending him behind bars after such a long period. Thus, in view of the facts and circumstances of the case, the ends of justice would be suitably met, if his substantive sentence is reduced to the period already undergone by him.

10. Keeping in view the above discussion, the impugned judgment of conviction dated 23.01.2018 passed by the Court of Additional Sessions Judge, Palwal, is upheld. However, the order of sentence is modified to the extent that the substantive sentence of imprisonment awarded by the trial Court is reduced to the period already undergone by the appellant, however, fine imposed by the Trial Court will not be modified and the amount of fine would remain the same.

11. With these directions, the appeal stands disposed off.

12. All pending applications, if any, are also disposed off, accordingly.

11.01.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

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