



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

226

CRA-S-4316-SB-2014

Date of Decision : **November 05, 2024**

VICKY @ BULLET

.....Appellant

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Nandan Jindal, Advocate and
Mr. Tushar Sabherwal, Advocate
for the appellant.

Mr. Raghav Garg, AAG, Punjab.

Mr. Abhinandan Jindal, Advocate
for respondent No.2.

KULDEEP TIWARI, J. (Oral)

1. The instant statutory appeal has been directed against the judgment of conviction dated 15.9.2014 and the order of sentence of even date passed by the learned Additional Sessions Judge, Sangrur, in case FIR No. 298 dated 6.8.2011, under Sections 307/326/323/324/427/34 IPC, Police Station City Sangrur, whereby, the appellant was convicted for an offence punishable under Section 307 IPC and sentenced to undergo rigorous imprisonment for a period of 7 years and to pay a fine of Rs.7,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of 6 months and was also convicted for an offence punishable under



Section 427 IPC and sentenced to undergo rigorous imprisonment for a period of one year. Both the sentences were ordered to run concurrently.

2. The prosecution agency was set into motion upon receipt of a medical ruqa on dated 5.8.2011 regarding admission of one Sanjiv Kumar and Pardeep Kumar in an injured condition. In response to the ruqa, SI Sukhpal Singh alongwith other police officials reached at Civil Hospital, Sangrur to record the statements of injured, whereupon Pardeep Kumar @ Kali (present complainant) suffered a statement, which became bedrock of the present FIR.

The relevant extract of the statement reads as under:-

“On 5.8.2011 at about 9.30 P.M he alongwith his brother Sanjiv Kumar were going to fountain Chowk, Patiala Gate, Sangrur in car bearing no.PB-13 Y (T) 7034. They were searching for a kiosk for purchase of cigarette. They had just stopped when Bullat alias Vicky alongwith his brother Ram Singh armed with kirpan, Hardeep Singh alias Rimpi son of Gugani armed with kirches alongwith 10-12 unidentified boys armed with kirches and lathies came there. They attacked them with their weapons. They were taken out of the car, Bullat alias Vicky gave kirch blow on the head of Sanjiv Kumar with intention to kill him. Thereafter Ram Singh had given Kirpan blow towards Sanjiv Kumar with intention to kill him and Sanjiv Kumar had fallen on the ground. When he was lying Hardeep Singh alias Rimpi gave kick blow on the back side of head of Sanjiv Kuamr. On his raising alarm Vicky alias Bullat gave a kirch blow on his arm. All the accused gave kick blows and inflicted injuries with their respective weapons to Sanjiv Kumar while raising Lalkara that Sanjiv Kumar was proclaiming as "Badmash" of the Basti, so he should not be left alive on that day. When he came forward to save Sanjiv Kumar, then Bullat alias Vicky gave the blow with reverse side of Kirpan on his left shoulder. He also fell down. While lying down, he was given blow with kirpan on the left upper side of ribs. Ram Singh also gave blow with reverse side of kirpan on his left shoulder. He also

fell down. While lying down, he was given blow with kirpan on the left upper side of ribs. Ram Singh also gave blow with reverse side of Kirpan on left side of his neck. He became unconscious. All the accused gave kick blows to him. They raised the alarm but all the accused gave continuous beating to them with intention to kill them. When they saw that he and Sanjiv Kumar became unconscious then all the accused fled away from the spot alongwith their respective weapons after beating them. They were shifted to Civil Hospital, Sangrur by Vicky and Ravi Chawla who suddenly reached at the spot. Accused had also got broken the mirror of their car. The motive behind the occurrence was that accused had a grudge with Sanjiv Kumar.”

3. The FIR (supra) was registered initially under Sections 326, 323, 427 and 324 read with Section 34 IPC. After the completion of the investigation, only three persons i.e. Vicky @ Bullet (present appellant), Ram Singh and Hardeep Singh @ Rimpi were put to trial and all other accused were declared as innocent. During the pendency of the trial, accused Ram Singh was murdered on dated 3.7.2012, whereas, the other co-accused Hardeep Singh @ Rimpi was declared as a proclaimed offender on dated 3.6.2014, therefore, only the present appellant was tried in the FIR (supra).

4. The learned trial Court concerned has framed charges under Sections 307, 323, 427 IPC. Upon which the accused not pleaded guilty to the charges and claimed trial, the prosecution was called upon to lead evidence. The prosecution examined as many as six witnesses.

5. The learned trial Court, after examining the entire record, recorded the verdict of conviction against the appellant and sentenced him, as mentioned above. This caused grievance to the present appellant and propelled him to file the instant statutory appeal.

**SUBMISSIONS BY THE LEARNED COUNSEL FOR THE APPELLANT**

6. Learned counsel for the appellant submits that in the instant case, injured-Sanjiv Kumar, who according to the prosecution has suffered grievous injuries, which were subsequently declared dangerous to life, and the medical report *qua* Sanjiv Kumar is of no significance, as he has not stepped into the witness box, therefore, the material witness has been withheld. He also submits that initially on two occasions, the doctor did not give any opinion *qua* injuries suffered by the injured-Sanjiv Kumar, as dangerous to life and in this regard, he has placed reliance upon Ex.P12 and P13 respectively, however, on third attempt made by the prosecution, the doctor has given opinion to the extent that injuries as suffered by the injured-Sanjiv Kumar “could be dangerous to life if the medical treatment was not given at proper time”. In this regard, he draws the attention of this Court towards Ex.P15. He further submits that even the opinion of the doctor is not sufficient to bring home the guilt of the present appellant for being convicted under Section 307 IPC. He also submits that co-accused Hardeep Singh @ Rimpi, who was declared as a proclaimed offender, was subsequently put to trial after his arrest and on account of the compromise effected between the injured-complainant, the prosecution has failed to prove the allegations against him and finally he was acquittal vide judgment of acquittal dated 28.2.2017. Finally, he submits that the instant matter has now been amicably settled *inter-se* the parties and both the parties are living in the same vicinity and the appellant has faced sufficient agony of the trial as well as incarceration, as he has suffered more than 2 years in jail, therefore, the sentence awarded to the present appellant be reduced to the period already undergone by him.

**SUBMISSIONS BY THE LEARNED STATE COUNSEL**

7. On the other hand, the learned State counsel opposes the submissions made by the learned counsel for the appellant and submits that one of the injured-complainants has stepped into the witness box and he categorically supported the case of the prosecution. He was put to lengthy cross-examination but nothing material was elicited, which could create dent in the case of the prosecution or which could impeach the credibility of the witness. He further submits that though the other injured-person i.e. Sanjiv Kumar did not step into the witness box but the doctor has proved the injuries on the person of Sanjiv Kumar and he is a independent witness and the fact that all the injuries were caused by the present appellant and other co-accused has been established by complainant-Pardeep Kumar, who has stepped into the witness box as PW3. He finally placed on record the custody certificate *qua* the appellant, the same is taken on record. The custody certificate reflects that the appellant has suffered incarceration of 1 year, 11 months and 22 days and with remission, he has suffered incarceration of 2 years, 7 months and 2 days out of total sentence of 7 years imposed upon him.

SUBMISSIONS BY THE LEARNED COUNSEL FOR THE COMPLAINANT

8. Learned counsel for the respondent-complainant submits that now the matter has been compromised and the complainant has no objection in case the asked for relief is granted to the appellant.

9. This Court has considered the rival submissions made by both the learned counsel for the parties concerned and is of the view that there is no illegality or perversity in the impugned judgment of conviction, however,



the order of sentence in view of the changed circumstances, requires interference.

10. It is not in dispute that only three persons were put to trial by the prosecution, and out of these three, one person has already died during the trial and proceeding *qua* him was ordered to be abated, whereas the other co-accused, namely, Hardeep Singh @ Rimpi has earned acquittal, as he was separately tried on account of his being declared as a proclaimed offender vide judgment of acquittal dated 28.2.2017 and the reason of acquittal is that the main injured-eye witness has turned hostile. So far as the present appellant is concerned, he is facing the agony of the trial since 2011 and he has suffered incarceration of more than 2 years as on today and now the matter has been amicably settled between the parties. The factum of compromise is duly accepted by the learned counsel for the complainant. It is not in dispute that both the parties are residing in the same vicinity. Learned counsel for the appellant has also informed this Court that the appellant is not involved in any other criminal case and he has now resettled in the mainstream of the society and, therefore, sending him behind the bars after such a long period, would not serve any purpose. Therefore, it is not either in the interest of the society or the appellant by sending him again to the prison. This Court finds support from the judgment of the Supreme Court in **Sk. Sakkar @ Mannan vs. State of West Bengal, 2021(4) SCC 483** wherein the Supreme Court after considering the mitigating circumstances reduced the sentence to the period already undergone. The relevant observations reads as under:

“11. It is manifest from [Section 20\(i\)](#) of NDPS Act (as it stood in 1997), that even though a maximum sentence of five years RI and a fine of upto Rs.50,000/- was prescribed

but there was no minimum mandatory sentence. The Legislature had in its wisdom left it to the judicious discretion of a court to award the minimum sentence albeit guided by the well known principles on the proportionality of sentence. Taking into consideration the peculiar facts and circumstances of this case, it appears to us that the ends of justice would be adequately met if the appellant's sentence is reduced to the extent of the period he has already undergone. We order accordingly."

11. Learned counsel for the appellant has placed reliance upon the judgment of **Issak Nabab Shah vs. The State of Maharashtra (Crl. Appeal No.828 of 2020)** wherein, the Supreme Court reduced the sentence from 10 to 6 years in case of commercial quantity under the the Narcotic Drugs and Psychotropic Substances Act, 1985 and observed as under:-

"5. Having heard the learned Advocates appearing for the respective parties and in the facts and circumstances of the case, more particularly when the quantity/Ganja recovered from the appellant was 6.300 kilogram, which is between small quantity and commercial quantity and considering the fact that the maximum punishment for such offence is 10 years rigorous imprisonment, out of which the appellant has already undergone six years rigorous imprisonment, we allow the present appeal in part and modify the impugned judgment and order passed by the learned trial Court, confirmed by the High Court, to the extent of imposing the sentence of six years rigorous imprisonment in place of ten years rigorous imprisonment as imposed by the learned trial Court and confirmed by the High Court. Rest of the judgment and order passed by the learned trial Court, confirmed by the High Court, is hereby confirmed."



12. Considering the age of the accused, aggravating and mitigating circumstances, while maintaining balance between deterrence against crime viz-a-viz re-formative approach of punishment, this Court deems it appropriate to reduce the period of sentence of the appellant to the period already undergone.

13. In view of the above, the appeal is partly **allowed**. The impugned judgment of conviction dated 15.9.2014 is upheld. However, the sentence imposed upon the appellant is reduced to the period already undergone. The sentence of fine is ordered to remain intact.

14. **Disposed** of accordingly.

November 05, 2024

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(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No