

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

108

CRA-S-1910-SB-2004 (O&M)
Date of decision: 18.01.2024

Bani Singh

....Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Jitender Dhanda, Advocate for the appellant.

Mr. Jagdish Manchanda, Addl. AG, Haryana.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 31.08.2004 and 03.09.2004, passed by the learned Sessions Judge, Hisar, whereby the appellant was convicted and sentenced to undergo rigorous imprisonment for three years alongwith fine of Rs.2000/- and in default of payment of the same, to further undergo rigorous imprisonment for three months for the offence under Section 307 with the aid of 34 IPC.
2. The case of the prosecution was based on the statement of one Sheotaj Singh that on 19.9.2001 at about 9.00 p.m Kamal, his son had gone for a stroll and on reaching a little distance near Brahm Mahavidayala, was followed by three young boys, who called out to him. Two of whom were known to him, one being Bhisham, the other Sukhbir and the third was unknown. With regard to a dispute as to tethering of the cattle, which was patched up but still nursing a

grudge, Bhisham proclaimed he would teach him a lesson for the said quarrel. On his word, Bani Singh caught hold of him, however, the others inflicted injuries. On raising hue and cry, the assailants fled away. Thereafter, the injured was taken to the hospital. FIR came to be registered. After investigation, the challan was presented and the accused were charged, to which they pleaded not guilty and claimed trial.

3. The prosecution in order to bring home the guilt of the accused examined as many as 8 PWs. On closure of their evidence, statement of the accused-appellant was recorded under Section 313 of Cr.P.C. He denied all the incriminating circumstances that appeared against him in the prosecution case while pleading false implication by the police.

4. The learned trial Court after hearing the learned counsel for the parties, convicted and sentenced the accused-appellant as noticed in para above.

5. Aggrieved appellant is before this Court.

6. Learned counsel for the appellant, at the very outset, gives up the challenge to his conviction and prays for reducing the sentence to the period already undergone on account of the fact that he is not involved in any other case; having two children; his father has already expired; his mother is blind; his wife is also a T.B. patient; except him there is none to earn the livelihood; never misused the concession of bail and has been facing the agony of protracted trial for the last 23 years and the only allegation against him was of having caught hold.

7. 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.

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

9. Evidently, PW4 Sheotaj had specifically ascribed the role of the accused in his deposition, which stood corroborated by injured Kamal and also proved from the medical evidence. Thus, the trial Court has rightly convicted the appellant as referred to above and there is no scope for interference in the findings recorded and conclusion arrived at by it. As such, the conviction of the appellant is affirmed.

10. Insofar as the modification of sentence to the period already undergone is concerned, a worthwhile reference can be made 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.

11. 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.

12. This Court, considering the judgments referred to above and the mitigating circumstances referred to by the learned counsel for the appellant, finds that the ends of justice would be served if the sentence of the appellant is ordered to be reduced to the period already undergone by him.

13. Accordingly, while upholding the conviction of appellant, his sentence is ordered to be reduced to the period already undergone by him. However, the fine shall remain intact.

14. With the aforesaid modification in the judgment of conviction and order of sentence dated 31.08.2004/03.09.2004, the present appeal stands partly allowed.

(AMAN CHAUDHARY)
JUDGE

18.01.2024

Ankur

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