

(2003) 02 P&H CK 0160
In the Punjab And Haryana At Chandigarh
Case No : Criminal Appeal No. 316 of 1990

Pal Singh, Ajmer Singh, Surinder Pal Singh and Mitta	APPELLANT
Vs	
State of Punjab	RESPONDENT

Date of Decision : 26-02-2003

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 374
Penal Code, 1860 (IPC) — Section 307, 323, 324, 325, 326

Citation : (2003) 02 P&H CK 0160

Hon'ble Judges : Jasbir Singh, J

Bench : Single Bench

Advocate : A.S. Virk, for D.S. Walia and Sandeep Varmani, for the Appellant;
Satnam Singh Gill, AAG, for the Respondent

Judgement

Jasbir Singh, J.—This order will dispose of Criminal Appeal No. 316 SB of 1990 and Criminal Revision No. 807 of 1990, as same impugned order/judgment involved in both these cases. For the sake of convenience, facts are being taken from Criminal Appeal No. 316 SB of 1990.

2. Counsel for the appellants states that Pal Singh-appellant No.1 has since died. None of his near relations has moved any application to continue with this appeal, within the stipulated period, as such, appeal qua Pal Singh abates.

3. This appeal has been filed against judgment and order dated 4.8.1990 and 6.8.1990, respectively, vide which appellants were convicted and sentenced as under:-

"2.A After hearing the learned Addl. P.P. and the learned defence counsel on the nature and quantum of sentence and keeping in view the totality of circumstances of this case, accused Surinder Pal singh alias Kala is sentenced to undergo R.I for seven years and to pay a fine of Rs. 1000/- u/s 307 IPC. In default of payment of fine, he shall undergo further R.I. for three months. He is sentenced to undergo R.I. for one year and to pay a fine of Rs. 500/- u/s 326/34

IPC. In default of payment of fine, he shall undergo further R.I. for two months. He is also sentenced to undergo R.I. for three months under Sections 323 and 323/34 and R.I. for nine months u/s 324/34 IPC. He is also sentenced to undergo R.I. for nine months and to pay a fine of Rs. 500/- under Sections 325 and 325/34 IPC. In default of payment of fine, further R.I. for two months.

3. Accused Pal Singh is sentenced to undergo R.I. for seven years and to pay a fine of Rs. 1000/- u/s 307/34 IPC. In default of payment of fine, he shall further undergo R.I. for three months. He is also sentence to undergo RI for three months u/s 323/34 IPC and RI for nine months u/s 324/34 IPC. He is also sentenced to undergo R.I. for one year and to pay a fine of Rs. 500/- u/s 326/34 IPC. In default of payment of fine, he shall undergo further R.I. for two months. He is also sentenced to undergo R.I. for nine months and to pay a fine of Rs. 500/- u/s 325/34 IPC. In default of payment of fine, he shall undergo further R.I. for two months.

4. Accused Ajmer Singh is sentenced to undergo R.I. for seven years and to pay a fine of Rs. 1000/- u/s 307/34 IPC. In default of payment of fine, he shall undergo further R.I. for thee months. He is also sentenced to undergo R.I. for three months u/s 323 and 323/34 IPC, and R.I. for nine months under Sections 324 and 324/34 IPC. He is also sentenced to undergo R.I. for one year and to pay a fine of Rs. 500/- u/s 326/34 IPC. In default of payment of fine, he shall undergo further R.I. for two months. He is also sentneced to undergo R.I. for nine months and to pay a fine of Rs. 500/- u/s 325/34 IPC. In default of payment of fine, he shall undergo further R.I. for two months.

5. Accused Mita Singh is sentenced to undergo R.I. for seven years and to pay a fine of Rs. 1000/- u/s 307/34 IPC. IN default of payment of fine, he shall undergo further R.I. for three months. He is also sentenced to undergo R.I. for the months u/s 323 and 323/34 IIPC, and for nine months u/s 324 and 324/34 IPC. He is also sentneced to undergo R.I. for two years and to pay a fine of Rs. 1000/- u/s 326 IPC. In default of payment of fine, he shall undergo further R.I. for three months. He is also sentenced to undergo R.I. for nine months and to pay a fine of Rs. 500/- u/s 325 and 325/34 IPC. In default of payment of fine, he shall undergo further R.I. for two months.

6. All the substantive sentences of imprisonment of all the accused shall run concurrently."

4. It is not necessary to go into further details of this case, as counsel for the appellants has addressed his arguments only regarding quantum of sentence. He has stated that alleged occurrence had taken place on 9.11.1988. Appellants continued to face agony of trial till trial was concluded vide judgment dated 6.8.1990 and thereafter, their appeal is pending for the last more than 13 years. Counsel further states that appellants No. 2 to 4, at the relevant time, when alleged occurrence took place, were of young age i.e. between 25 to 37 years, may be without understanding the consequence of their act, they may have

committed alleged offence. Now they are old and matured people, living with their family in a very peaceful manner. He further informs this court that after their conviction, they had not indulged themselves into any other criminal activity and now are residing like disciplined citizens. Counsel further states that during pendency of this appeal, a fear of sending behind the bars continue to lurk in their mind and it has its desired effect of reforming them. He further states that the appellants and the injured are co-villagers and if at this stage, appellants are sent behind the bars, it will have an adverse effect so far as the peace and tranquillity in the village is concerned. Court has also been informed that Ajmer Singh and Surinder Pal Singh, appellants had already undergone about three and half years of imprisonment during their trial and after their conviction. It was further been brought to the notice of this court that Mita was declared innocent by the investigating agency, however, he was summoned by the trial court, by invoking the provisions of Section 319 Cr.P.C. and ultimately, he was convicted. He had also undergone imprisonment for more than one month during his trial and after his conviction. By referring to the above mentioned facts, counsel for the appellants contends that their sentence be reduced to the period already undergone.

5. Mr. Vermani, appearing for the complainant has not denied a fact that after conviction of the appellants, during the intervening period, relations between the appellants and the complainant party had become very cordial and now there remains no ill-will so far as the parties are concerned. Counsel for the complainant has only contended that in case sentence of the appellants is going to be reduced to the one already undergone, he be suitably compensated for the injuries caused.

6. Purpose of criminal law is to bring discipline, peace and harmony in the society and also to given an opportunity to an erring individual to reform himself.

7. Their Lordships of the Supreme Court in Karamjit Singh Vs. State (Delhi Admn.), , opined as under:-

"Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case, the court has to weigh the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is, what is needed in such case; a balance between the interest of the individual and the concern of the society: weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the

individual to reform himself and lead the life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law."

8. In *Tarak Nath Singh and Anr. v. State of West Bengal* 1998 (1) SCC (Cri) 587, their Lordships of Supreme Court, keeping in view the fact that the occurrence took place 18 years earlier to the decision of appeal and the parties were relatives, reduced the sentence to the period already undergone.

9. Similar is the opinion expressed by a Division Bench of this Court in *State of Punjab v. Gurmail Singh* 2002 (2) R.C.R. (Cri) 600. In that case, in an appeal against acquittal, accused were convicted, however, they were sentenced to a term of imprisonment already undergone, keeping in view the fact that incident had occurred in the year 1981.

10. To the same effect is the opinion of this Court in *Chhota Singh v. State of Punjab* 1998 (1) R.C.R. (Cri) 467.

11. Similarly, a Single Bench of this Court in a case titled as *Behari Lal v. State of (U.P.) Chandigarh* 2000 (1) AICLR 832, while deciding a matter for commission of an offence under Prevention of Food Adulteration Act, 1954, by taking note of judgments of Supreme Court in *Municipal Corporation of Delhi Vs. Tek Chand Bhatia*, and *Braham Dass v. State of Himachal Pradesh* 1988 (2) AICLR 899, reduced sentence of the accused therein to the one already undergone.

12. By noticing ratio of above mentioned judgments and keeping in view the fact that injured and appellants are co-villagers and appellants No. 2 and 3 had spent about three and half years behind the bars and appellant No.4 had spent about one month behind the bars, during their trial and after conviction, their conviction is upheld and sentence is reduced to the period already undergone.

13. However, keeping in view the opinion of their Lordships of Supreme Court, in *Baldev Singh and another Vs. State of Punjab*, with a view to safeguard interest of the injured and to pacify his emotions and also in view of prayer made by counsel for the complainant and in the interest of justice, fine is maintained and enhanced to Rs. 75,000/- in all. Counsel for the appellants has not raised any objections to this enhancement of fine. It is directed that appellants shall deposit that fine i.e. Rs. 25,000/- each with the trial court within a period of two months from the date of receipt of a copy of this order. It is further directed that above mentioned amount be paid to Jaswant Singh son of Sajan Singh, injured, by way of compensation, who has filed Crl. Revision No. 807 of 1990. Mr. Vermani states that he has instructions from other injured not to raise any objections, if compensation is being paid to Jaswant Singh. On deposit so being made, as aforementioned, trial court will disburse that amount to Jaswant Singh forthwith. In case, appellants fail to deposit the amount of fine, within the stipulated

period, this appeal shall be deemed to have been dismissed.

14. With above modification, appeal and revision are disposed of.