

(2016) 01 P&H CK 0356
In the Punjab And Haryana At Chandigarh
Case No : CRA-S-2705-SB-2015 (O&M)

Rishi Pal and Others

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 27-01-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 357
Penal Code, 1860 (IPC) — Section 307, Section 506

Citation : (2016) 1 LawHerald 712

Hon'ble Judges : Naresh Kumar Sanghi, J.

Bench : Single Bench

Advocate : Deipa Singh, Advocate, for the Appellant; Sanjay K. Saini, AAG, for the Respondent

Final Decision : Partly Allowed

Judgement

Naresh Kumar Sanghi, J.—1. Challenge in the present criminal appeal is to the judgment dated 18.5.2015, passed by learned Additional Sessions Judge, Palwal, whereby the appellants, namely, Rishi Pal son of Ramphal, Gulbir @ Gulli son of Azad Singh, and Kartar son of Bir Singh, were held guilty for the offences punishable under Sections 307 and 506, IPC, and each one of them was ordered to undergo the following sentences:-

Under Section

Sentence (R.I.)

Fine (in Rs.)

In Default (S.I.)

307, IPC

Seven years

50,000/-

Six months

506, IPC

One year

?

?

2. Both the sentences were ordered to run concurrently. It was further ordered that out of the entire amount of fine, rupees one lac would be paid to the injured, Jogender, as compensation, under Section 357, Cr.P.C.

3. Vide criminal miscellaneous application bearing No. CRM-30339-2015, the appellants have produced the compromise, dated 7.9.2015 (Annexure P-1), the same is taken on record.

4. Learned counsel for the parties are in unison that in view of the compromise (Annexure P-1) so effected between the informant (Manoj), Jogender (injured) and three appellants, the present appeal can be finally disposed of at this stage.

5. Learned counsel for the appellants submits that both the private factions are residing in vicinity in the same village; on a trivial issue, the quarrel had taken place in which Jogender (PW-8) had received injuries, including fractures on his right temporal bone, left nasal bone and lateral wall of left maxillary antrum; the injuries suffered by Jogender Singh (PW-8) have healed and he is leading a normal life; the appellants are first offenders; each appellant is sole bread winner for his family; the appellants are facing the agony of trial and appeal for last more than five years; the appellants Gulbir @ Gulli and Kartar have already suffered incarceration for one year and one and a half month and one year and four months respectively, while the appellant, Rishi Pal, has undergone the incarceration for approximately ten months; during investigation, the appellant, Rishi Pal, was found to be innocent by the investigating agency and, as such, his name was placed in column of innocent persons; the appellant, Gulbir @ Gulli, was allegedly armed with a stick, which is normally available in the agriculturist's family, to which he belongs; the appellant, Kartar, was concededly empty handed; after conviction and sentence, all the appellants are behind the bars and during their incarceration, they have not committed any jail offence, which would spell out that they are improving themselves; during pendency of the present appeal, better sense has prevailed and the compromise, dated 7.9.2015 (Annexure P-1), was effected between the appellants and the informant (Manoj) and the injured (Jogender); and that in view of the said compromise, the substantive sentence of the appellants may be reduced to the period already undergone by them.

6. Learned counsel for the State after going through the copy of the compromise (Annexure P-1), very fairly concedes that the informant and the injured have resolved their dispute and effected a compromise with the appellants and, as

such, leniency can be shown to the appellants with regard to the quantum of sentence only. He further admits that Rishipal (appellant No. 1) has suffered incarceration approximately for ten months, Gulbir @ Gulli (appellant No. 2) for one year and one and a half month, and Kartar (appellant No. 3) for one year and four months.

7. Learned counsel for the informant/injured/aggrieved persons has also admitted the factum of the compromise and, as such, has no objection if the substantive sentence awarded to the appellants is reduced to the period already undergone by each one of them.

8. I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

9. Though learned counsel for the appellants has opted not to argue the case on merits and has confined her arguments with regard to quantum of sentence only, on the basis of the compromise (Annexure P-1), yet to satisfy the conscience of this Court, the material available on record has been rescanned with the able assistance of learned counsel for the parties.

10. This Court finds that during trial Manoj (informant) and Jogender (injured), the doctors who radiologically and medico-legally examined Jogender (PW-8), and the investigating/police officials, have fully supported the prosecution case and from their depositions, the essential ingredients of Sections 307 and 506, IPC, are well proved for holding the appellants guilty for said offences and, as such, learned counsel for the appellants has correctly opted not to challenge their conviction. However, there appears to be substance in the submissions of the counsel representing the appellants that in view of the compromise (Annexure P-1) and the grounds (supra) submitted by her, the substantive sentence awarded to the appellants can be reduced.

11. In similar circumstances, in a case of conviction and sentence, under Section 307, IPC, reported as Gulab Das and others v. State of M.P., while referring to its earlier judgments in the cases of Ram Lal and another v. State of Jammu & Kashmir, , (1999) 2 SCC 213, and Ishwar Singh v. State of Madhya Pradesh, , (2008) 15 SCC 667, Hon"ble the Supreme Court had reduced the sentence of the appellants.

12. Perusal of the compromise deed (Annexure P-1) and as admitted by learned counsel for the informant/injured/aggrieved persons, it is well proved on record that during pendency of the present appeal the informant and the injured have resolved their dispute and effected the compromise (Annexure P-1). Learned counsel for the State has also not denied the said fact. The injuries suffered by Jogender (PW-8) have healed and he is leading a normal life. The appellants are first offenders. Both the private factions are living in vicinity in a village and all the three appellants have suffered sufficient incarceration, therefore, while maintaining the order of fine imposed by learned Trial Court, the substantive sentence of the appellants, namely, Rishi Pal, Gulbir @ Gulli and Kartar, is

ordered to be reduced to the period already undergone by them.

13. Learned Trial Court had ordered that out of the total fine of rupees one lac and fifty thousand (rupees fifty-thousand on each appellant), a sum of rupees one lac would be paid to the injured, Jogender. The said order is modified and it is directed that the entire amount of fine imposed upon the three appellants, i.e. rupees one lac and fifty thousand, shall be paid to the injured, Jogender, as compensation.

14. As pointed out by learned counsel for the State, the amount of fine imposed upon the appellants, has not been paid so far. This Court directs that within two months of the release of the appellants from jail, the amount of fine imposed against each one of them shall be deposited with learned Chief Judicial Magistrate/Duty Magistrate, Palwal. As soon as the said amount of fine is deposited, learned Chief Judicial Magistrate, Palwal, shall issue notice to the injured, Jogender, to withdraw the same as per norms.

15. It is made clear that if the fine imposed upon the appellants is not deposited by them within the stipulated period, then the substantive sentence awarded by learned Trial Court shall enure.

16. Since the appellants are in custody, therefore, they be set free at once, if not required in any other case. Their release orders be issued at once.

17. The appeal is partly allowed.