
(2019) 01 SC CK 0152

In the Supreme Court Of India

Case No : Criminal Appeal Nos. 23, 25 Of 2019

State Of Haryana

APPELLANT

Vs

Rohit Khasa & Etc. Etc.

RESPONDENT

Date of Decision : 02-01-2019

Acts Referred:

Indian Penal Code, 1860 — Section 109, 392, 397, 411
Arms Act, 1959 — Section 25(1B)

Citation : (2019) 01 SC CK 0152

Hon'ble Judges : Ashok Bhushan, J;K.M. Joseph, J

Bench : Division Bench

Advocate : Raj Singh Rana, Pankaj Kumar Singh, Manindra Dubey, Makrand Pratap Singh, Vishwa Pal Singh, Neeraj Datt Gaur, S. S. Nehra, R.K. Gupta

Final Decision : Partly Allowed

Judgement

Leave granted.

These appeals are filed by the State of Haryana questioning the judgment dated 13.02.2015 of the High Court of Punjab & Haryana at Chandigarh in CRA-S-1423-SB of 2012 (O&M), CRA-S-2976-SB of 2013 (O&M) and CRA-S-362-SB of 2014 (O&M). The respondents were convicted and awarded sentence by the Additional Sessions Judge in the following manner:

Name of the convict

Under Section

Imprisonment RI

Fine (Rs.)

1. Rohit Khasa

392/397/109 IPC

10 Years

10,000/-

2. Sameer Nain

392/397/109 IPC 411 IPC 25(IB) Arms Act

10 Years

3 years

3 years

10,000/-

2000/-

2000/-

3. Amit Yadav

392/397/109 IPC 411 IPC 25(IB) Arms Act

10 Years

3 years

3 years

10,000/-

2000/-

2000/-

The High Court after hearing the parties maintained the conviction however High Court reduced the sentence to the following effect:

"In such circumstances, while maintaining the conviction recorded under Sections 392/397/109 IPC, the sentence of appellant Rohit Khasa is reduced to 6 years; maintaining the sentence of accused Samir Nain under Sections 392/397/109 IPC, his sentence is reduced to 6 years whereas his sentence under Section 411 IPC and Section 25(1-B) of Arms Act, 1959 is maintained as it is; maintaining the sentence of appellant Amit Yadav under Section 392/397/109 IPC, his sentence is reduced to 4 years. While his sentence under Section 411 IPC and Section 25(1-B) of Arms Act, 1959 is maintained as it is."

The High Court also in its judgment has noticed contention of counsel for the appellants that appellants did not choose to contest the findings of the trial court recorded on the merits of the case and they had only prayed for to take a lenient view in the matter of sentence. Heard learned counsel for the parties and perused the record.

Learned counsel for the appellant in support of the appeals raised only one

submission i.e. the conviction of the respondents-accused was under Section 397 IPC for which minimum sentence is seven years. He submitted that High Court could not have reduced the sentence even lesser than the minimum sentence of seven years, hence, judgment of the High Court deserves to be set aside.

Counsel for the respondents-accused submitted that the reduction of sentence by the High Court to 6 years and 4 years was in the peculiar facts and circumstances of the case and the Court after discussing the matter with the learned counsel had adopted the said course which need no interference by this Court.

Section 397 IPC provides as follows:

"397. Robbery, or dacoity, with attempt to cause death or grievous hurt - If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years."

The conviction, as maintained by the High Court, is under Section 397 IPC. We fail to see that when the conviction under Section 397 IPC is maintained why the High Court has reduced the sentence to a sentence lesser than the minimum sentence prescribed under Section 397 IPC. Thus the judgment of the High Court needs to be modified to the extent that sentence to the respondents under Section 397 IPC to be seven years. The judgment of the High Court is modified to the said extent. Appeals are partly allowed.