courtkutchehry.com

Company: Sol Infotech Pvt. Ltd.
Website: www.courtkutchehry.com
Printed For:
Date: 05/11/2025

(2010) 12 P&H CK 0574

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Appeal S-1864-SB of 2002

Desh Raj APPELLANT

Vs

State of Haryana RESPONDENT

Date of Decision: Dec. 13, 2010

Acts Referred:

- Penal Code, 1860 (IPC) - Section 323, 325

Hon'ble Judges: Tej Pratap Singh Mann, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

T.P.S. Mann, J.
Vide impugned judgment and order dated 9/12.11.2002 Additional Sessions Judge, Narnaul convicted the Appellant u/s 307 IPC and sentenced him to undergo rigorous imprisonment for five years and to pay a fine of Rs. 500/-and in default of payment of fine, to undergo further rigorous imprisonment for two months. The Appellant was further convicted u/s 325 IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs. 300/-and in default of payment of fine, to undergo further rigorous imprisonment for one month. He was also convicted u/s 323 IPC and sentenced to undergo rigorous imprisonment for four months. All the sentences awarded to him were ordered to run concurrently. The period for which he had already remained in custody during investigation/trial was to be set off against the aforementioned sentences. It may also be mentioned here that eight co-accused of the Appellant were convicted u/s 323 IPC by the trial Court simultaneously with the Appellant but were granted the benefit of probation.

2. Against his conviction and sentence, the Appellant filed the present appeal in which he is on bail.

3. Learned Counsel for the Appellant has not challenged the judgment of conviction passed by the trial Court. However, he has submitted that even according to the

prosecution, the Appellant was not armed with any lethal weapon at the time of occurrence. He was said to have used a lathi in causing injuries. He has further submitted that the Appellant has been facing the agony of protracted criminal proceedings for the last more than 141/2 years. He has to look after his family consisting of three daughters. He is the sole bread winner of his family. Out of the sentence of five years" imprisonment imposed upon him, he has already served a period of about 1 year and 1 month. Therefore, the remaining sentence of imprisonment of the Appellant be set aside.

4. Learned State counsel has submitted that as the Appellant caused injuries, which were declared dangerous to life, he does not deserve any concession in the matter of sentence. However, he has drawn the attention of the Court to the custody certificate produced by him on the last date of hearing, as per which the Appellant has already undergone sentence of 1 year and 25 days and after deducting the parole period of four weeks, the actual sentence undergone by the Appellant comes to 11 months and 27 days.

5. Taking into consideration the totality of the circumstances, the Court is of the view that no useful purpose would be served by sending the Appellant behind the bars, once again, for undergoing his remaining sentence of imprisonment. Ends of justice would be amply met if the substantive sentence of the Appellant is reduced to that already undergone by him.

6. Resultantly, the conviction of the Appellant for the various offences, as recorded by the trial Court, is maintained. His substantive sentences of imprisonment are reduced to that already undergone by him. Sentences of fine, alongwith their default clauses, are maintained.

7. But for the modification in the sentences of imprisonment, as indicated above, the appeal fails and is, therefore, dismissed.