

Amit @ Bittu Vs State of Haryana

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Aug. 9, 2016

Acts Referred: Criminal Procedure Code, 1973 (CrPC) - Section 389
Penal Code, 1860 (IPC) - Section 212, Section 302, Section 34

Citation: (2017) 1 RCRCriminal 601

Hon'ble Judges: Mahesh Grover and Shekher Dhawan, JJ.

Bench: Division Bench

Advocate: Vivek Khatri, Advocate,, for the Applicant; Ms. Kirti Singh, DAG Haryana, for the Respondent

Final Decision: Allowed

Judgement

1. This is an application under Section 389 Cr.P.C. praying for suspension of sentence of the applicant-appellant, namely Amit alias Bittu, who has

been convicted and sentenced to undergo life imprisonment in a case registered vide FIR No. 1141 dated 20.10.2013 under Sections 302/34/212

IPC at Police Station Sadar, Hisar.

2. According to the prosecution version, recorded in the FIR, the complainant had seen certain persons beating up the deceased. Three names

were mentioned while two other persons were referred to as ""unknown persons"". The deceased was taken to the hospital where he succumbed to

his injuries.

3. Learned counsel for the applicant-appellant contends that in the initial version, name of the applicant did not appear and subsequently an eye-

witness mentioned his name, which would raise the debatable issues of the identity and involvement of the present applicant in the commission of

offence. Apart from this, it is contended that there is no direct evidence to link the applicant with the commission of offence. It is also stated that

the applicant has undergone two years, nine months & two days out of total substantive sentence of life imprisonment.

4. The prayer is opposed by learned counsel for the respondent-State. But the period of custody is not disputed.

5. After hearing learned counsel for the parties, we are of the opinion that the presence, identity and involvement of the applicant in the given set of

facts would raise debatable issues which are to be determined in the appeal, which we would not dilate any further, lest it prejudices the outcome

of the appeal. Suffice it to say that looking into the facts of the case in totality and contradiction of sorts between the initial versions and the one

given subsequently coupled with the factum of applicant having undergone two years, nine months & two days out of total substantive sentence of

life imprisonment, would persuade us to grant the concession of suspension of sentence to the applicant. Thus, we would, without commenting on

the merits of the case, deem it appropriate to direct the suspension of sentence of the applicant-appellant, namely Amit alias Bittu during the

pendency of the appeal on his furnishing bail/surety bonds to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Hisar.

6. Criminal Misc. Application stands allowed.

7. Nothing said here-in-above shall be construed to be an expression of opinion on the merits of the case.