

SUPREME COURT OF INDIA

Parveen

Vs.

The State of Haryana

Crl.A.No.49/2016

(V.Gopala Gowda and Uday Umesh lalit,JJ.)

19.01.2016

ORDER

Uday Umesh Lalit,J.

(Arising out of SLP(Crl.) No. 10404 of 2014)

1. Leave granted.

2. This appeal challenges the judgment and order dated 21.12.2013 passed by the High Court of Punjab & Haryana in Crl. Appeal No. S-1793-SB of 2011 confirming the conviction and sentence of the appellant and one Jaswant under Sections 398 and 401 of the Indian Penal Code and Section 25 of the Arms Act. On 18.12.2014 this Court was pleased to issue notice limited to the question of sentence.

3. According to the prosecution, the police had received specific information that the appellant and one Jaswant were planning to loot passing vehicles near Agma Gas Agency Store situated in Sector 21D, Faridabad. This information was received on 09.02.2009 after 9:30 p.m. PW2 Ishwar Singh, ASI was already present in Sector 21D, Faridabad on patrol duty. On receipt of the information, he along with raiding party proceeded towards the spot. According to PW2 Ishwar Singh and PW4 Head Constable Yaseen Khan, they saw a white coloured Indigo car parked at a deserted spot. They further saw that the appellant and said Jaswant tried to stop a passing Maruti car but the driver evaded them and sped away. The police overpowered the appellant and said Jaswant and on their personal search recovered a knife from the appellant and an iron rod from Jaswant. On search of the car, the police found two number plates, one having car registration number of Madhya Pradesh. The photographer was called and photographs of the vehicle and the site in question were taken.

4. During investigation it was discovered that said car was actually owned by LIC and was a stolen vehicle. Neither the appellant nor said Jaswant could come up with any explanation how that car was found in their possession. Further, both these persons were statedly residents of Distt. Gonda, U.P. and not residents of Faridabad.

5. The Trial Court after considering the material on record found that the case as against the appellant and Jaswant was fully made out. It convicted both the accused under Section 398 IPC and sentenced them to suffer rigorous imprisonment for seven years. They were further convicted under Sections 471 IPC and 411 IPC and sentenced to suffer rigorous imprisonment for seven years and one year respectively with imposition of fine and sentences in default. The appellant was also convicted under Section 25 of the Arms Act and sentenced to suffer rigorous imprisonment for one year.

6. In appeal arising from the judgment of conviction of Trial Court, it was submitted that both the accused had already undergone custody for over three and a half years and that their sentence be reduced to that already undergone. The High Court considered the matter in its entirety and found both the accused were armed with deadly weapons and that the record showed that they had other pending cases registered against them. The High Court thus did not differ from the view taken by the Trial Court and dismissed the appeal.

7. We have gone through the record and heard rival submissions. As mentioned herein above, notice was limited to the question of sentence. The conviction in the instant case is under Sections 398 and 401 of the IPC. Though sentence under Section 401 can be less than seven years, that under Section 398 "shall not be less than seven years". The appellant and said Jaswant were sentenced to seven years rigorous imprisonment under Section 398 IPC, which is the minimum sentence.

8. In the circumstances no relief can be granted to the appellant. We therefore dismiss this Criminal Appeal.