



115                    **IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRA-S-998-2025 (O&M)  
Decided on : 26.03.2025**

Kalu Khan

..... Appellant

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ**

Present:     Mr. Jagdeep Singh Bhatta, Advocate, for the appellant.  
                 Mr. J.S. Arora, DAG, Punjab.

**Rajesh Bhardwaj, J.**

CRM-12195-2025

For the reasons mentioned in the application, the same is allowed. Delay of 11 days in filing the appeal is condoned.

Main appeal

1.            Appellant has approached this Court by way of filing the present appeal impugning the order of conviction and sentence dated 07.01.2025 passed by learned Additional Sessions Judge, Fazilka, whereby, the appellant has been convicted under Sections 148, 452, 365, 506 read with Section 149 IPC and sentenced to undergo rigorous imprisonment for three years.

2.            Succinctly, the facts of the case are that the FIR in the present case was lodged on the complaint filed by the complainant, namely, Gurwant Kaur wife of Dhian Singh, wherein, it was alleged that on 30.03.2012, she alongwith her servants Sushil Kumar and Kulwinder Singh was present in her house. A litigation was pending between Samarbeer



Singh and Kulbir Singh with her son Balkaran Singh. At about 3:30 p.m. some vehicle stopped outside her house and Samarbeer Singh and Kulbir Singh accompanied by 5-6 other persons armed with weapons entered their house. All the accused encircled them and made them to sit in one room. They were threatened not to raise any alarm. Then, after searching the Almirahs etc., they took away their gold ornament, currency notes and documents of land. They also took the complainant and her servants in a car. Thereafter, they dropped the complainant and her servants on the road and fled away towards Malout. On returning to her house, she found the locks of iron boxes and Almirah to have been broken. The accused had taken away the cash, gold ornaments and documents of land. Prayer was made to take legal action against the accused. After registration of the FIR, the investigation commenced and after completion of the investigation, challan under Section 173 Cr.P.C. was filed qua accused Jagtar Singh @ Tari, Nachhatar Singh, Goma Singh, Ghulam Farid, Kalu (appellant) and Ayub Khan for the commission of offence under Sections 382, 365, 452, 506, 427, 148, 149 IPC and Sections 25 and 27 of the Arms Act. However, rest of the accused were found innocent and were kept in column No.2. On framing of charges, learned trial Court proceeded with the trial. The prosecution examined Tilak Raj as PW-1, Kulwinder Singh as PW-2, Inspector Ranjit Singh as PW-3, SI Baljit Singh as PW-4 and Mehtab Singh Junior Assistant as PW-5 and Lavjinder Singh data entry operator as PW-6. The statement of the accused-appellant was recorded under Section 313 Cr.P.C., wherein, he pleaded his innocence. Learned trial court on weighing the evidence led by both the sides, found the charges under Sections 148,



452, 365 and 506 read with 149 IPC having been proved against the appellant. However, he was acquitted for the charges framed under Sections 382, 392, 395, 427 IPC and Section 27 of the Arms Act. Thus, the appellant was sentenced vide order dated 07.01.2025. Hence, aggrieved by the same, the appellant has approached this Court by way of filing the present appeal.

3. Learned counsel for the appellant at the outset has submitted that the appellant has been convicted by learned trial Court and sentenced to undergo rigorous imprisonment for three years. He submits that as the appellant has already suffered rigors of trial for about 13 years, he does not press the conviction awarded to him. He has submitted that out of maximum sentence i.e. three years awarded to the appellant, he has already undergone more than two years of sentence. Thus, he prays that the appeal be disposed of by reducing the sentence to that of already undergone by the appellant.

4. Learned State counsel has placed on record the custody certificate of the appellant. He submits that as per custody certificate, out of sentence awarded to the appellant, he has undergone sentence of more than two years.

5. After hearing learned counsel for the parties and perusing the record, it is deciphered that the appellant was though prosecuted under Sections 365, 382, 452, 506, 427, 148 and 149 IPC and Sections 25 and 27 of the Arms Act, however, on conclusion of the trial, charges under Sections 148, 452, 365, 506 read with Section 149 IPC were found to have been proved. For the rest of the charges, the appellant was acquitted. As per custody certificate filed by the State, the appellant has undergone a sentence of 02 years 02 months & 20 days as on 11.12.2023 on which he was



released on bail. The custody certificate would further show that the appellant has no criminal antecedents as except the present case, he has never been prosecuted in any other case. Evidently, FIR in the present case was lodged on 30.03.2012 and since then, the appellant is facing rigors of the trial. In the overall facts and circumstances, there are mitigating circumstances for considering the prayer made by counsel for the appellant as more than two year of sentence, he has already been undergone. Keeping in view all the above facts, the present appeal is partly allowed by reducing the sentence of the appellant to that of already undergone by him, however, the conviction awarded to the appellant shall remain intact.

**26.03.2025**  
sharmila

Whether Speaking/Reasoned  
Whether Reportable

**(RAJESH BHARDWAJ)**  
**JUDGE**

: Yes/No  
: Yes/No