



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

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CRR-1169-2011 (O&M)
Date of decision: 08.05.2025

Harbhajan Singh and others

....Petitioners

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. Nisha, Advocate (*Amicus Curiae*)
for the petitioners.

Mr. Nitesh Sharma, DAG, Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This revision petition has been preferred against the judgment dated 03.05.2011 passed by the learned Additional Sessions Judge, Amritsar, vide which judgment of conviction and order on quantum of sentence dated 08.11.2006 passed by the learned Judicial Magistrate Ist Class, Amritsar, in FIR No.138 dated 20.03.2000 registered under Sections 379, 324, 325, 148, 149 IPC at Police Station Kathunangal, have been modified.

2. The petitioners were acquitted of the charges under Section 379 read with Section 149 IPC by learned Additional Sessions Judge, Amritsar, however, their sentences have been modified by learned Additional Sessions Judge, Amritsar, as under:



Name of Accused	Acquitted Offence(s)	Convicted Offence(s)	Original Sentence	Modified Sentence
Harbhajan Singh	Section 379 r/w 149 IPC	Sections 148, 323, 324, 325 r/w 149 IPC	3 years RI u/s 148 & 325 r/w 149 IPC	Reduced to 2 years RI u/s 148 & 325 r/w 149 IPC
Jaspal Singh	Section 379 r/w 149 IPC	Sections 148, 323, 324, 325 r/w 149 IPC	3 years RI u/s 148 & 325 r/w 149 IPC	Reduced to 2 years RI u/s 148 & 325 r/w 149 IPC
Balkar Singh	Section 379 r/w 149 IPC	Sections 148, 323, 324, 325 r/w 149 IPC	3 years RI u/s 148 & 325 r/w 149 IPC	Reduced to 2 years RI u/s 148 & 325 r/w 149 IPC
Jaswant Singh	Section 379 r/w 149 IPC	Sections 148, 323, 324, 325 r/w 149 IPC	3 years RI u/s 148 & 325 r/w 149 IPC	Reduced to 2 years RI u/s 148 & 325 r/w 149 IPC
Shangara Singh	Section 379 r/w 149 IPC	Sections 148, 323, 324, 325 r/w 149 IPC	3 years RI u/s 148 & 325 r/w 149 IPC	Reduced to 2 years RI u/s 148 & 325 r/w 149 IPC
Mohinder Singh	Section 379 r/w 149 IPC	Sections 148, 323, 324, 325 r/w 149 IPC	3 years RI u/s 148 & 325 r/w 149 IPC	Reduced to 2 years RI u/s 148 & 325 r/w 149 IPC
Kulwant Singh	Section 379 r/w 149 IPC	Sections 148, 323, 324, 325 r/w 149 IPC	3 years RI u/s 148 & 325 r/w 149 IPC	Reduced to 2 years RI u/s 148 & 325 r/w 149 IPC

A fine of Rs.500/- each along with default mechanism has also been imposed upon all the petitioners under Section 325 read with Section 149 IPC and it was ordered that all their sentences shall run concurrently.

3. Learned *amicus curiae*, *inter alia*, contends that there was a delay of 24 hours in registration of the FIR, which has not been explained. Further the case set up by the prosecution is highly probable as at the time of alleged occurrence, the complainant was armed with a loaded gun and nothing is forthcoming as to why he did not use the



same in his self-defence. Further the Investigating Officer has not been examined by the prosecution and therefore, the conviction of the petitioners is not sustainable. Moreover, no independent witness was examined and the statement of the material witnesses were discrepant with regard to number of injuries. Lastly, she submits that the petitioners are not involved in any other case and they have already undergone their sentence as follows:-

Name of Convicts/ Petitioners	Total Sentence	Undergone Period
Harbhajan Singh	Rigorous imprisonment of 02 years	02 months and 20 days
Jaspal Singh	Rigorous imprisonment of 02 years	02 months and 23 days
Kulwant Singh	Rigorous imprisonment of 02 years	02 months and 19 days
Balkar Singh	Rigorous imprisonment of 02 years	06 months and 07 days
Jaswant Singh	Rigorous imprisonment of 02 years	02 months and 24 days
Mohinder Singh	Rigorous imprisonment of 02 years	02 months and 23 days
Shangara Singh	Rigorous imprisonment of 02 years	06 months and 11 days

4. *Per contra*, learned State counsel opposes the prayer of the petitioners on the ground that the learned Courts below have passed a well-reasoned judgment based on correct appreciation of evidence available on record as such, the petitioners do not deserve any leniency.

5. Having heard learned counsel for the parties and after perusing the record with their able assistance, it transpires that the petitioners were convicted for causing injuries on the person of the complainant; rioting with deadly weapons and unlawful assembly,



attracting the offence under Sections 148, 323, 324, 325 read with 149 IPC, for which no minimum punishment has been prescribed. As per the custody certificates, the petitioners are not involved in any other case and have already undergone the sentence, in the instant case as follows:-

Name of Convicts/ Petitioners	Total Sentence	Undergone Period
Harbhajan Singh	Rigorous imprisonment of 02 years	02 months and 20 days
Jaspal Singh	Rigorous imprisonment of 02 years	02 months and 23 days
Kulwant Singh	Rigorous imprisonment of 02 years	02 months and 19 days
Balkar Singh	Rigorous imprisonment of 02 years	06 months and 07 days
Jaswant Singh	Rigorous imprisonment of 02 years	02 months and 24 days
Mohinder Singh	Rigorous imprisonment of 02 years	02 months and 23 days
Shangara Singh	Rigorous imprisonment of 02 years	06 months and 11 days

Since there is no minimum punishment prescribed under Sections 148, 325, 323, 324, 149 IPC, this Court is of the opinion that it would be in the interest of justice, if the sentence awarded to the petitioners is reduced to the period already undergone by them.

6. In *Deo Narain Mandal vs. State of U.P. (2004) 7 SCC 257*, the Hon'ble Supreme Court has opined that awarding of sentence is not a mere formality in criminal cases. When a minimum and maximum term is prescribed by the statute with regard to the period of sentence, a discretionary element is vested in the Court. Background of each case, which includes factors like gravity of the offence, manner in which the offence is committed, age of the accused, should be considered while



determining the quantum of sentence and this discretion is not to be used arbitrarily or whimsically. After assessing all relevant factors, proper sentence should be awarded bearing in mind the principle of proportionality to ensure the sentence is neither excessively harsh nor does it come across as lenient.

7. Further, the Hon'ble Supreme Court in ***Ravada Sasikala vs. State of AP AIR 2017 SC 1166***, has reiterated that the imposition of sentence also serves a social purpose as it acts as a deterrent by making the accused realise the damage caused not only to the victim but also to the society at large. The law in this regard is well settled that opportunities of reformation must be granted and such discretion is to be exercised by evaluating all attending circumstances of each case by noticing the nature of the crime, the manner in which the crime was committed and the conduct of the accused to strike a balance between the efficacy of law and the chances of reformation of the accused.

8. A perusal of the judgment of conviction passed by the learned Court below indicates no perversity in its findings and the same is based on correct appreciation of evidence available on record. The FIR (supra) was registered on 20.03.2000 and the petitioners are suffering the agony of trial for the last more than 25 years. Since their conviction, the petitioners have grown into a law-abiding citizen and desire to live a peaceful life.

9. Therefore, in view of the discussion above, the present revision petition, is disposed of in the following terms:-



(i) The judgment of conviction dated 03.05.2011 passed by the learned Additional Sessions Judge, Amritsar is upheld.

(ii) The order of sentence is modified to the extent that the sentence of rigorous imprisonment for a period of 02 years and fine along with default mechanism awarded to the petitioners is reduced to the period of sentence already undergone by them.

10. The High Court Legal Services Authority is directed to pay remuneration to learned *Amicus Curiae* as per rules.

11. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

08.05.2025
yakub

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No