

CRR-1756-2003 (O&M)

(1)

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

CRR-1756-2003 (O&M)

Date of Decision: February 11, 2015

Kashmir Singh and another

.....Petitioners

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Davinder Bir Singh, Advocate for
Mr.Daldeep Singh, Advocate
for the petitioners.

Mr.K.S.Pannu, DAG, Punjab.

.....

NARESH KUMAR SANGHI, J.(ORAL)

Challenge in this criminal revision petition is to the judgment, dated 22.07.2003 passed by learned Additional Sessions Judge, Patiala, whereby appeal filed by the petitioners Kashmir Singh and Gurjant Singh and their co-convict Harpal Singh challenging their conviction and sentence for the offences punishable under Sections 323 , 325 read with Section 34, and 326 read with Section 34, IPC, was dismissed.

At the very outset, learned counsel for the petitioners submits that in view of the concurrent findings of both the Courts below, he does not propose to challenge the conviction of the

petitioners. However, he submits that the occurrence had taken place in the year 1993 on account of a water dispute between the informant/injured Randhir Singh (PW1) and the petitioners and their co-convict Harpal Singh in which Randhir Singh (PW1) had allegedly received four simple and two grievous injuries. One grievous injury was on the first metatarsal of the right foot attracting the mischief of Section 326, IPC, while another grievous injury attracting the mischief of Section 325, IPC, was on ulna of left arm. The petitioners, who were of young age at the time of occurrence, are neither required nor involved in any other case. Both of them have already suffered substantive sentences of approximately four months and during their incarceration they earned remissions for approximately one year. Petitioners were on bail during pendency of trial and appeal but they did not misuse the said concession; the grievous injuries alleged to have been caused by the petitioners were on the non-vital parts of Randhir Singh (PW1). The petitioners are ready to duly compensate the injured, Randhir Singh.

Learned counsel for the State has produced two affidavits of Deputy Superintendent, Central Jail, Patiala, showing the period of incarceration and the remissions earned by the petitioners. He fairly concedes that the grievous injuries on the

person of Randhir Singh (PW1) alleged to have been caused by the petitioners were on non-vital parts. He also concedes that the petitioners are neither required nor involved in any other case and during their incarceration they have earned remissions for 01 year and 12 days.

I have heard the learned counsel for the parties and with their able assistance gone through the material available on record.

Though the learned counsel for the petitioners has proposed not to challenge the conviction of the petitioners but to satisfy the conscience of this Court, the trial Court record requisitioned by this Court has been perused.

As per the prosecution case, informant Randhir Singh (PW1) suffered the statement before SI Uttam Singh (PW 7) on 21.08.1993 to the effect that about 7-8 days ago, petitioner No.1 Kashmir Singh wanted to get water for his paddy crop without permission of the master of the informant, to which he (informant) did not agree. About five days thereafter, petitioner No.1 Kashmir Singh approached the informant and expressed his desire to get the water and if his request was not acceded to then the legs of the informant would be broken. On the same day at about 10.00 p.m. when the informant was lying on a cot, then

Tarsem Singh (PW2) son of Karnail Singh, i.e. owner of the field came there and in the meantime, petitioner No.1-Kashmir Singh armed with a **barchi**, petitioner No.2- Gurjant Singh armed with a **dang** and Harpal Singh (co-convict of the petitioners) armed with a **lathi** arrived from the canal side and immediately thereafter petitioner No.1 Kashmir Singh inflicted an injury by means of a **barchi** on his (informant) right foot and noise raised by him attracted Tarsem Singh (PW2) and Karnail Singh to the spot. Harpal Singh inflicted **dang** blows on the right and left legs of the informant Randhir Singh (PW1) and thereafter Kashmir Singh once again inflicted an injury on the left arm of the informant (PW1) by means of a **barchi**. Gurjant Singh by means of a **dang** inflicted an injury on the right wrist of the informant and thereafter Harpal Singh gave a **dang** blow on the head of the informant. Tarsem Singh (PW2) and Karnail Singh rescued the informant from the clutches of petitioners and their co-convict and after putting the soil in the mouth of informant, petitioners retired from the spot with their respective weapons. Informant/injured was carried to the hospital at Samana where he was medico-legally examined.

After recording the statement, the police memo was sent to the police for registration of the First Information Report.

Place of occurrence was inspected by SI Uttam Singh (PW7) and rough site plan was prepared. Statements of the witnesses were recorded. The informant was examined by the Radiologist and after completion of the investigation, the charge-sheet (report under Section 173, Cr.P.C.) was presented before the learned Area Judicial Magistrate.

After supplying the copies of the documents, as envisaged under Section 207, Cr.P.C., the charges for the offences punishable under Sections 323, 325 read with Section 34, and 326 read with Section 34, IPC, were framed against the petitioners and their co-convict to which they pleaded not guilty and claimed trial.

The prosecution in support of their case examined PW1 Randhir Singh, PW2 Tarsem Singh, PW3 Dr. P.K.Mittal, PW4 Dr. N.K.Singla, PW5 Joginder Singh, PW6 HC Jarnail Singh and PW7 SI Uttam Singh and closed its evidence.

After closure of the prosecution evidence, statements of the petitioners and their co-convict Harpal Singh under Section 313, Cr.P.C. were recorded and all the incriminating circumstances appearing against the petitioners in evidence of the prosecution were put to them. They denied all the allegations and stated that they had been falsely implicated in this case, in

connivance with the police. In their defence, they examined DW1 Constable Harminder Singh, DW2 Constable Surinder Singh, and DW3 Satish Kumar and closed their defence evidence.

After hearing the learned counsel for the parties, the learned trial Court held the petitioners and their co-convict Harpal Singh guilty for the offences punishable under Sections 323, 325 read with Section 34 and 326 read with Section 34, IPC, and awarded the following sentences:-

Petitioner No.1-Kashmir Singh

Section	Sentence (RI)	Fine	In default (RI)
323, IPC	6 months	-	-
325/34 IPC	1 ½ years	-	-
326, IPC	2 years	Rs.2000/-	3 months

Petitioner No.2-Gurjant Singh

Section	Sentence (RI)	Fine	In default (RI)
323, IPC	6 months	-	-
325/34 IPC	1 ½ years	-	-
326/34, IPC	2 years	Rs.2000/-	3 months

Co-convict -Harpal Singh

Section	Sentence (RI)	Fine	In default (RI)
323, IPC	6 months	-	-
325/34 IPC	1 ½ years	-	-
326/34, IPC	2 years	Rs.2000/-	3 months

All the sentences were ordered to run concurrently.

Dis-satisfied with the judgment of conviction and order of sentence, petitioners and their co-convict Harpal Singh filed the appeal before the Court of Session and the same was dismissed and hence, the present criminal revision petition by the petitioners, Kashmir Singh and Gurjant Singh only.

A perusal of the depositions of the prosecution witnesses would reveal that the conviction recorded by the learned trial Court and maintained by the learned appellate Court are well based and, as such, the learned counsel for the petitioners has correctly proposed not to challenge their conviction.

There appears to be substance in the submissions of the learned counsel for the petitioners when he submitted that the occurrence had taken place about 20 years ago; petitioners are the first offenders; during pendency of the trial and appeal, the petitioners were on bail and they did not misuse the said concession; the quarrel had originated on account of demand of water for the paddy crop of the petitioners; the petitioners are neither required nor involved in any other case; the petitioners were of young age at the time of occurrence; both the petitioners are the sole bread winners for their respective families and that each one of them has already suffered incarceration for 03

months and 21 days of substantive sentences as per the affidavits produced by the learned counsel for the State.

It is further clear from the said affidavits that each petitioner has earned remissions for more than 01 year, which shows that both the petitioners were improving themselves during their incarceration. Including the remissions, the petitioners have suffered incarceration for 01 year and more than 04 months. Both the petitioners are also ready to compensate the injured.

In view of the above, the remaining substantive sentences of the petitioners, Kashmir Singh and Gurjant Singh are reduced to the period already undergone by each one of them. The fine imposed by the Courts below is maintained. In addition, each petitioner shall pay Rs.25,000/- (Rupees twenty five thousand only), i.e. (Rs.25,000/- + Rs.25,000/-), total amounting to Rs.50,000/- (Rupees fifty thousand only) to the informant/ injured -Randhir Singh. The said amount of compensation shall be deposited by the petitioners within one month and 15 days from the date of passing of this order with learned trial Court/ Duty Magistrate, who in turn shall issue notice to the informant/injured Randhir Singh to withdraw the said amount of compensation as per norms.

CRR-1756-2003 (O&M)

(9)

In case the petitioners fail to comply with the order of this Court in depositing the amount of compensation within the stipulated period, then the defaulter(s) would undergo the remaining sentences as passed by the Courts below.

February 11, 2015
meenu

(NARESH KUMAR SANGHI)
JUDGE