

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

Crl. Rev. No.1999 of 2006

Date of Decision: 14.10.2015

Jai Pal and othersPetitioners

Versus

State of HaryanaRespondent

Crl. Rev. No.171 of 2007

Arjun Singh and anotherPetitioners

Versus

Jaipal Singh and othersRespondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspapers may be allowed to see the judgment ? (Yes/No)**
- 2. To be referred to reporters or not ? (Yes/No)**
- 3. Whether the judgment should be reported in the Digest ? (Yes/No)**

Present:- Mr. R.K. Handa, Advocate
for the petitioners
in **Crl. Rev. No.1999 of 2006.**

None for the petitioners
in **Crl. Rev. No.171 of 2007.**

Mr. Sharad K. Yadav, D.A.G., Haryana
for the respondent-State.

DAYA CHAUDHARY, J. (ORAL)

By this judgment, two petitions bearing **Criminal Revision No.1999 of 2006** and **Criminal Revision No.171 of 2007** shall be disposed of as both the revision petitions have arisen out of the same

judgment of conviction and order of sentence. However, for the sake of convenience, the facts are being derived from **Criminal Revision No.1999 of 2006**.

Briefly, the facts as per the prosecution version are that FIR No.78 dated 05.06.1992 was registered under Sections 323, 324, 326 IPC read with Section 34 IPC at Police Station Pundri against four accused, namely, Jai Pal, Vinod Kumar, Kuldeep Kumar and Om Parkash. All the four accused faced trial for said offences and ultimately, they were convicted and sentenced by the trial Court vide judgment dated 24/25.09.2002.

The detail of conviction and sentence awarded to the above said four accused is as under :-

<i>Sr. No.</i>	<i>Name of the convict</i>	<i>Offence</i>	<i>Sentence</i>	<i>fine</i>
1	Jai Pal	323 IPC read with Section 34 IPC 324 IPC read with Section 34 IPC 326 IPC read with Section 34 IPC	Three months One year Two years	₹ 250/- and in default of payment of fine, further undergo rigorous imprisonment for a period of 15 days. ₹ 500/- and in default of payment of fine, further undergo rigorous imprisonment for a period of one month. ₹ 1000/- and in default of payment of fine, further undergo rigorous imprisonment for a period of one month.
2	Vinod Kumar	323 IPC read with Section 34 IPC 324 IPC read with Section 34 IPC 326 IPC read with Section 34 IPC	Three months One year Two years	₹ 250/- and in default of payment of fine, further undergo rigorous imprisonment for a period of 15 days. ₹ 500/- and in default of payment of fine, further undergo rigorous imprisonment for a period of one month. ₹ 1000/- and in default of payment of fine, further undergo rigorous imprisonment for a period of one month.

Sr. No.	Name of the convict	Offence	Sentence	<i>fine</i>
3	Om Parkash	323 IPC read with Section 34 IPC	Three months	₹ 250/- and in default of payment of fine, further undergo rigorous imprisonment for a period of 15 days.
		324 IPC read with Section 34 IPC	One year	₹ 500/- and in default of payment of fine, further undergo rigorous imprisonment for a period of one month.
		326 IPC read with Section 34 IPC	Two years	₹ 1000/- and in default of payment of fine, further undergo rigorous imprisonment for a period of one month.
4	Kuldip Singh	323 IPC read with Section 34 IPC	Three months	₹ 250/- and in default of payment of fine, further undergo rigorous imprisonment for a period of 15 days.
		324 IPC read with Section 34 IPC	One year	₹ 500/- and in default of payment of fine, further undergo rigorous imprisonment for a period of one month.
		326 IPC read with Section 34 IPC	Two years	₹ 1000/- and in default of payment of fine, further undergo rigorous imprisonment for a period of one month.

Aggrieved with the said judgment of conviction and order of sentence, the accused-petitioners preferred an appeal before the Additional Sessions Judge, Kaithal. However, the same was dismissed. The conviction was upheld on 25.09.2006 with the modification in sentence that the petitioners shall undergo rigorous imprisonment to the extent of half imprisonment as ordered by the trial Court under each section. The sentence of fine was ordered to remain the same. Thereafter, the accused petitioners filed the revision petitions before this Court to challenge the said judgment of conviction and order of sentence.

Criminal Revision No.1999 of 2006 has been filed by all four accused, whereas, **Criminal Revision No.171 of 2007** has been filed by the complainant for setting aside the judgment passed by the Appellate

Court.

Learned counsel for the petitioners contends that all the petitioners have falsely been implicated in the case, whereas, they were involved because of land dispute between the parties. The complainant-Gopal Singh is brother of petitioner No.1 and uncle of petitioners No.2 to 4. He further submits that petitioner No.1 is about 85 years of age and is getting regular treatment from the doctor. He is suffering from old age ailments. Learned counsel also submits that the petitioners have faced the agony of trial since lodging of FIR i.e 05.06.1992 and they are not having any criminal background as no other criminal case is pending against them. The petitioners are sole bread winners of their respective families and are having large family to support. Learned counsel further submits that the petitioners are poor persons and they should have been released on probation by the Courts below but in spite of making request, the same was not considered by both the Courts below. They have undergone actual custody of more than one month. Learned counsel also submits that he will not contest the conviction, in case, by taking a lenient view, the sentence of the petitioners is reduced to the period already undergone.

Learned counsel for the respondent-State submits that the sentence of the petitioners has already been reduced to half of the sentence by the Appellate Court but he has not disputed that they are facing trial since lodging of the FIR i.e 05.06.1992.

Heard the arguments advanced by learned counsel for the parties and have also perused the judgments passed by both the Courts below as well as other documents available on the file.

Since, learned counsel for the petitioners has submitted that he would not like to contest the conviction, in case, the sentence of the petitioners is reduced to the period already undergone as they are facing

the agony of trial for the last more than 23 years; they are first offenders as no other case is pending against them; they are not having any criminal background; they are sole bread earners of their respective families and moreover, the petitioner No.1 is more than 85 years of age. The submissions made by learned counsel for the petitioners is accepted.

Keeping in view the facts as mentioned above, the conviction is upheld but the sentence of the petitioners is reduced to the period already undergone subject to deposit of an amount of ₹ 10,000/- by each of the accused-petitioner, within a period of one month from the date of receipt of certified copy of this order, which shall be released to the injured equally. However, in case, the petitioners fail to deposit the aforesaid amount within the prescribed period, they shall have to undergo the remaining part of their sentence. Petitioners are already on bail as their sentence was suspended by this Court on 27.10.2006. The petitioners are discharged from the bail/surety bonds furnished by them.

The petition bearing **Criminal Revision No.1999 of 2006** filed by the petitioners is disposed of with the modification in the aforesaid terms.

Resultantly, **Criminal Revision No.171 of 2007** is dismissed.

14.10.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE