

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

CRR No.206 of 2007 (O&M)

Date of decision: 29.07.2015

Subhash & others

... Petitioners

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. R.N. Singal, Advocate for the petitioners.
Mr. M.S. Sidhu, Additional Advocate General, Haryana.

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TEJINDER SINGH DHINDSA, J.

The petitioners herein stand convicted and sentenced to undergo simple imprisonment for a period of one year and have been imposed fine of Rs.500/- for offence under Section 326 read with Section 34 IPC and six months simple imprisonment for the commission of offence punishable under Section 323 read with Section 34 IPC by the Court of Judicial Magistrate 1st Class, Hisar. All the sentences were, however, directed to run concurrently. In default of payment of fine, the petitioners were directed to undergo further simple imprisonment for a period of three months. The appeal preferred by the petitioners against the conviction and order of sentence has been dismissed vide decision dated 22.01.2007 passed by the learned Additional Sessions Judge, Hisar.

2. Resultantly, the instant revision petition.

3. Counsel appearing for the petitioners at the very outset would

make a submission that he is not assailing the conviction on merits and only confines the scope of the revision petition qua reduction in quantum of sentence.

4. Learned State counsel would, however, oppose the submission made on behalf of the petitioners and would contend that upon appreciation of due evidence adduced on record no infirmity, illegality or ambiguity can be found in the impugned judgments.

5. However, this Court finds force in the limited contentions and submissions raised on behalf of the petitioners. The occurrence relates back to the year 1996. It was a scuffle between neighbours. The cause of the occurrence is stated to be the accused/convicts having been prevented from plucking *neem* leaves from the *neem* tree planted in the rented premises of the complainant. The petitioners have already suffered the agony of a protracted trial since 1996. The main accused i.e. petitioner No.1, Subhash, has been attributed a grievous injury with a knife resulting in a cut of *pinna* of the left ear of the complainant, Bhagwana. Insofar as the other two petitioners are concerned, no specific grievous injury was attributed to them.

6. As per custody certificates furnished by the learned State counsel, the main accused, namely, Subhash s/o Kishori Lal has already undergone a total sentence period of six month as on 16.07.2007 i.e. the date his sentence was suspended during the pendency of the revision petition by this Court. Insofar as petitioners No.2 & 3 are concerned, as per custody certificates, they have undergone a total sentence period of 28 days. The fine that had been imposed is stated to have already been paid. The petitioners are not stated to be involved in any other criminal proceedings.

7. In **Karamjit Singh Vs. State (Delhi Admn.), 2000 (3) RCR**

(Criminal)1561 (SC):2001(9) SCC 161, the Hon'ble Apex Court has observed as under:

“Punishment in criminal cases is both punitive and reformatory. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformatory aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case the Court has to weight the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is what is needed in such a case, a balance between the interest of the individual and the concern of the society weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.”

8. Keeping in view the facts and circumstances of the instant case and following the ratio of the decision aforesaid, the ends of justice would be met if the substantive sentence as awarded by the trial Court is reduced to the period already undergone by each one of the petitioners. It is ordered

accordingly. Bail bonds already furnished by the petitioners shall stand discharged.

Petition is disposed of accordingly.

29.07. 2015
harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether referred to the Reporter? no