

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

CRR No. 2385 of 2012.
Decided on : 29.10.2015.

Bakhshish Singh @ Shisha and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. I.S. Brar, Advocate,
for the petitioners.

Mr. Arun Luthra, AAG, Haryana.

JITENDRA CHAUHAN, J.

This revision petition is filed against the judgment dated 31.7.2012, passed by the Additional Sessions Judge, Sirsa whereby the judgment of conviction dated 9.7.2010 and the order of sentence dated 12.7.2010, passed by the Judicial Magistrate Ist Class, Sirsa were upheld and the petitioners were convicted and sentenced as under:-

Offence	Sentence	Fine	In default
323/34 IPC	RI for 3 months	Rs.250/-	SI for 15 days
324/34 IPC	RI for 6 months	Rs.250/-	SI for 15 days
326/34 IPC	RI for 1 year	Rs.500/-	SI for 1 month

All the substantive sentences were ordered to run
concurrently.

The brief facts of the case as noticed in the judgment of Additional Sessions Judge are as under:-

“Briefly stated, the facts of the prosecution case are that on 2.5.2000 on receipt of ruqa, ASI Balwinder Singh reached at General Hospital, Sirsa and sought opinion of the doctor regarding fitness of injured Pali and Mithu for recording their statement but both of them were declared unfit to make their statements and that on the next day i.e. 3.5.2010 ASI along with other police officials, again reached to the hospital and recorded statement of injured Pali son of Gullu Ram to the effect that his brother had shifted near his house at Peer Basti after selling his house situated at Ther Mohalla and, therefore, he along with his brothers Mithu and Birbal, was loading the luggage of his brother on their head, in the meantime, at about 6.00 a.m when they were passing through the house of Bhajan Kaur, her pet dog barked upon them and they hit him with which said Bhajan Kaur became annoyed/angry and came to them armed with a stick and instigated her sons to teach them lesson for hitting their pet dog upon which accused Shisha Singh while armed with sword whereas accused Lala while armed with a

kappa along with their brother in law Jeet Singh, resident of village Ram Nagria, all of them came to them and attacked on him (complainant). Shisha Singh caused injury on his left hand while inflicting a sword blow, Lala caused injury on his right arm while inflicting a kappa blow whereas Jeet Singh caused injury on his head above left eye while inflicting a kappa blow. Thereafter, Bhajan Kaur also gave a lathi blow on the left wrist of the complainant and then Lala gave a second blow with his kappa on his left hand. In the meantime, his brothers Mithu and Birbal rushed to the spot and rescued him from the clutches of all the assailants but while rescuing him, Jeet Singh gave a kappa blow on the head of Mithu Singh and Bhajan Kaur gave a lathi blow on the person of Birbal. On receiving injuries, the complainant became unconscious. On his statement, the present case was registered. The investigation was set into motion.”

After completion of the investigation, the challan/report under Section 173 Cr.P.C was presented in the Court. The accused were charge-sheeted. After holding trial, the learned trial Magistrate convicted and sentenced the accused as narrated above.

Feeling dis-satisfied with the judgment of conviction

dated 9.7.2010 and the order of sentence dated 12.7.2010, the accused preferred an appeal before the Additional Sessions Judge, Sirsa. However, before the Additional Sessions Judge, the learned counsel for the accused did not challenge the judgment of conviction on merits rather he prayed for releasing the accused on probation. The Additional Sessions Judge vide the impugned judgment dated 31.7.2012, dismissed the appeal.

Learned counsel for the petitioners informs that Bakhshish Singh @ Shisha-petitioner No.1 has completed his sentence and on his completion of sentence, he has been released by the jail authorities on 28.5.2013. He further states that the present revision petition be dismissed as infructuous qua petitioner No.1.

The revision petition qua petitioner No.1 stands dismissed as having been rendered infructuous.

Learned counsel for the petitioners further submits that Bhajan Kaur, the petitioner No.4 has died during the pendency of present revision petition.

So, revision qua petitioner No.4 stands abated.

The learned counsel, on behalf of petitioners No.2 and 3, does not challenge the judgments of conviction on merits but prays for reduction of sentence to a reasonable period. He further submits that Lala Ram, the petitioner No.2 has undergone actual sentence of 4 months and 13 days whereas, Jeet

Singh, the petitioner No.3 has undergone actual sentence of 4 months

and 12 days. The petitioners have been facing the agony of protracted trial for the last 15 years and they are now in their forties. They are first time offenders and are not involved in any other FIR. They are the sole bread winners of their respective families. Moreover, the injury falling within the mischief of Section 326 IPC was not attributed to them.

Keeping in view the mitigating circumstances enumerated above and the fact that the petitioners No.2 and 3 have been convicted for causing simple injury to the complainant and that they have not been attributed the offence of grievous injury, this Court is of the opinion that the ends of justice would be sufficiently met in case the sentence of the petitioners No.2 and 3 is reduced to the period already undergone by them. It is ordered accordingly. However, petitioners No.2 and 3 are directed to pay compensation of Rs.25,000/- to Mithu Ram, the injured within three months from today. The sentence of fine shall remain intact. In case the compensation is not paid within the stipulated period, the revision petition would be deemed to be dismissed.

29.10.2015.
SN

(JITENDRA CHAUHAN)
JUDGE