

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Revision No.1285 of 2015

Date of Decision: July 16, 2015

Hari Kishan and anotherPetitioners

Versus

State of HaryanaRespondent

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

Present: Mr.Shilesh Gupta, Advocate for the petitioners.

Mr.Satish Saini, Deputy Advocate General, Haryana.

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TEJINDER SINGH DHINDSA, J.

This order shall dispose of three revision petitions i.e. Criminal Revision Nos.1285 of 2015 (**Hari Kishan and another v. State of Haryana**), 1540 of 2015 (**Rakesh v. State of Haryana**), and 1551 of 2015 (**Mahavir v. State of Haryana**).

2. These three revision petitions have been taken up for disposal together as they are directed against the common judgment dated 10.3.2015 passed by the learned Additional Sessions Judge, Gurgaon in terms of which the judgment of conviction dated 19.3.2013 and order of sentence dated 20.3.2013 passed by the Sub Divisional Judicial Magistrate, Pataudi, District Gurgaon whereby accused/present petitioners were held guilty and convicted under Sections 323/325 read with Section 149 of the Indian Penal Code and were sentenced to

undergo rigorous imprisonment for a period of six months under Section 323 of the Indian Penal Code and to undergo rigorous imprisonment for a period of two years and a fine of ₹200/- under Section 149 of the Indian Penal Code, has been upheld.

3. In brief, prosecution version is that the FIR was lodged relating to an incident that took place on 9.3.2003 upon the complaint of Jagdish. Complainant Jagdish stated that he, Ran Singh, Mukesh, Rameshwar, Mahavir and Narain were real brothers. Complainant Jagdish, Ran Singh, Mukesh and Rameshwar were residing together, whereas Mahavir and Narain were staying separately. Complainant is stated to have constructed and running a hotel in the portion of the premises that came to his share and in the share of Ran Singh, Mukesh and Rameshwar. Mahavir and Narain nursed a grudge on account of such activity. In the occurrence that took place in the late hours of 9.4.2003, Mahavir is stated to have broken a light that had been installed by the complainant upon the portion belonging to Mahavir. Complainant Jagdish having objected to the same, Mahavir accused (petitioner in Criminal Revision No.1551 of 2015) is stated to have given a spade blow on the back side of the complainant. Rama Nand son of Mahavir accused (petitioner No.2 in Criminal Revision No.1285 of 2015) had given lathi blows on the eye-brow of the right eye of the complainant. Hari Krishan and Rakesh are also stated to have come on the spot and given spade blows and danda blows on the complainant.

4. It would be apposite to notice that at the stage of preliminary hearing of these three revision petitions before this

Court, learned counsel for the petitioners had suffered a statement that he is not assailing conviction of the petitioners on merits in the light of the cogent and plausible evidence adduced on record but confined the scope of the revisions only as regards quantum of sentence.

5. Having heard learned counsel for the parties at length, this Court is of the considered view that there would be no scope of interference under the limited revisional jurisdiction in the light of the well-reasoned judgments recorded by the Courts below as regards conviction of the petitioners for commission of offence under Sections 323/325 read with Section 149 of the Indian Penal Code is concerned.

6. Accordingly, conviction of the petitioners is upheld.

7. Insofar as quantum of sentence is concerned, it would be pertinent to take notice that the occurrence had taken place on account of a scuffle between immediate family members. The case does not carry any undertones of petitioners belonging to a hardened group of criminals.

8. As per custody certificate furnished by the learned State counsel, the petitioners have already undergone a total sentence period of five months and 15 days as on 4.7.2015. In other words, as of date, the sentence period undergone would be approximately six months including remissions. Petitioners have faced the pangs of criminal trial since the year 2003. Right to speedy trial is a fundamental right of the accused which flows from Article 21 of the Constitution of India. If the Court is not able to assure the accused speedy trial, it would be open for the Court

to show him some consideration towards sentence.

9. In the totality of circumstances, this Court is of the considered view that ends of justice would be met if the sentence awarded to the petitioners is reduced to the period already undergone.

10. Ordered accordingly.

11. For the reasons recorded above, present revision petitions are dismissed as regards conviction of the petitioners for offence under Sections 323/325 read with Section 149 of the Indian Penal Code. Sentence is reduced to the period already undergone. Fine, if not paid, be deposited immediately. The petitioners be released thereafter if not wanted in any other case.

12. Revision petitions are disposed of in the aforesaid terms.

July 16, 2015

SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether to be referred to Reporter? (Yes/No)