

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

(1) CRR-2119 of 2015 (O&M).
Decided on:-28.10.2015.

Rahul.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

(2) CRR-2617 of 2015 (O&M).

Narender Kumar.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

(3) CRR-3102 of 2015 (O&M).

Sonu Kumar.

.....Petitioner.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. S.K. Yadav, Advocate
for the petitioner in CRR-2119 of 2015.

Mr. L.S. Mann, Advocate
for the petitioner in CRR-2617 of 2015.

Ms. Sanamjeet Kaur, Advocate
for the petitioner in CRR-3102 of 2015.

Mr. Ashish Yadav, Addl. A.G., Haryana.

HARI PAL VERMA, J.

This order shall dispose of three Criminal Revision Petitions i.e. CRR-2119 of 2015 titled as ***Rahul Versus State of Haryana***, CRR-2617 of 2015 titled as ***Narender Kumar Versus State of Haryana*** and CRR-3102 of 2015 titled as ***Sonu Kumar Versus State of Haryana*** as the same have arisen from a common case bearing FIR No.413 dated 15.10.2013 under Section 392 read with Section 34 IPC, Police Station Dharuhera, District Rewari.

The petitioners have filed the present revision petitions against the judgment dated 16.4.2015 passed by learned Additional Sessions Judge, Rewari whereby the appeal against the judgment of conviction dated 12.12.2014 and order of sentence dated 17.12.2014 passed by learned Chief Judicial Magistrate, Rewari, was dismissed.

Learned Magistrate vide judgment dated 12.12.2014 has held the petitioners guilty for the commission of offence punishable under Section 392 read with Section 34 IPC. Vide separate order dated 17.12.2014, the petitioners were sentenced to undergo rigorous imprisonment for a period of four years and to pay a fine of Rs.2,000/- each for the commission of the aforesaid offence.

For the sake of convenience, facts are being taken up from CRR No.2119 of 2015 titled as ***Rahul Versus State of Haryana***.

Briefly stated, the prosecution story is that Yogesh Dadhich son of Ram Gopal Dadhich recorded his statement before the police that he is resident of Main Market, Bangar, District Jhunjunu (Rajasthan) and working as Assistant Engineer in Halcrow Company, Noida. His brother Parveen used to take IAS coaching in Mukherji Nagar, Delhi. On 14.10.2013 at about 9.30 p.m. he along with his brother Parveen were coming to their village Bangar from Noida in their Alto car bearing registration No.RJ-18-6595 (for short, the car). At about 11.30 p.m. when they stopped their car near a tea shop at village Massani and were taking tea, three young boys came on a motorcycle. While one boy went to their car, the other two kept sitting on their motorcycle. All of a sudden, one boy sat on the driver's seat and tried to run away in the car. The complainant along with his brother tried to stop them, but the accused tried to run over the car upon him. However, the complainant managed to escape. The remaining two boys sitting on the motorcycle also ran away behind the car.

On the above facts, FIR was registered and the accused-petitioners were arrested. The investigation was carried out followed by submission of report as provided under Section 173 Cr.PC. The copy of said report was supplied to the petitioners-accused free of costs as required under Section 207 Cr.PC.

The trial Court vide judgment dated 12.12.2014 and order dated 17.12.2014 had convicted and sentenced the petitioners-accused in the

manner as indicated above. However, on appeal filed by the petitioners, the same was dismissed and the petitioners were taken into custody. It is in these circumstances the petitioners have filed the aforementioned revision petitions in this Court.

Learned counsel for the petitioners have initially contested the impugned judgments on merits i.e. non-appreciation of evidence, identification test, non-examination of independent witnesses, but thereafter, they have confined their respective arguments on the quantum of sentence only.

Thus, this Court is now required to deal the present revision petitions only on the issue of quantum of sentence.

Learned counsel for the petitioners have contended that the FIR was registered on 15.10.2013 and since then, the petitioners are in custody. They have further submitted that during the course of trial, the petitioners have not been released on bail till date and their sentence has also not been suspended after conviction.

Learned counsel for the petitioners have relied upon the judgment of this Court in ***Tilak Raj Versus State of Haryana 2003(2) AICLR 735*** to contend that the petitioners being the first offenders and young men are in custody for the last more than two years, the sentence awarded by the trial Court may, therefore, be reduced to the sentence already undergone by them. In support of their contention, learned counsel for the

petitioners have further relied upon the judgments of this Court in ***Raj Kumar and another Versus The State of Punjab 2005(2) Law Herald 357*** and ***Nagina and others Versus State of Haryana 2003(3) RCR (Criminal) 194.***

Learned State counsel, on the other hand, has not disputed the custody of the petitioners. However, he has submitted that the offence committed by the petitioners is against the society and, therefore, they are not entitled even for reduction of sentence. He has further submitted that as per the custody certificates of the petitioners, there is no other case pending against petitioner Narender Kumar. So far as petitioner Rahul is concerned, there is no other case pending against him except a case bearing FIR No.177 of 2014 under Sections 353, 323 and 324 IPC, P.S. Rampur. Learned counsel for petitioner Rahul has submitted that the said FIR was registered against petitioner Rahul as there was a fight between the co-prisoners at the time of their production in Court. Similarly, there is no other case pending against petitioner Sonu Kumar except a case bearing FIR No.397 dated 8.10.2013 under Sections 392 and 394 IPC, Police Station Dharuhera, District Rewari, wherein he was convicted by learned Chief Judicial Magistrate Rewari on 17.12.2014, but in appeal filed by him, he was acquitted by learned Additional Sessions Judge, Rewari vide judgment dated 4.8.2015. In this manner, as per the custody certificates, petitioners Rahul and Narender Kumar are in custody for the last more than two years, whereas petitioner

Sonu Kumar is in custody for the last one year 4 months and 21 days.

I have heard learned counsel for the parties.

After hearing the rival contentions of the parties, I feel that there is some force in the submissions made by learned counsel for the petitioners. Admittedly, against the awarded sentence of four years, the petitioners are in custody for more than two years (except petitioner Sonu, who, as per the custody certificate, is in custody for the last 1 year 4 months and 21 days). It is also a conceded position that there is no other case pending against the petitioners except a case bearing FIR No.177 of 2014 under Sections 353, 323 and 324 IPC, P.S. Rampur against petitioner Rahul, which was a sudden fight between the co-prisoners.

Taking all the facts and circumstances of the present case into consideration, this Court feels that the ends of justice would be adequately met in case the sentence awarded to the petitioners-accused is reduced to the period of two years as the petitioners are not involved in any other case except FIR No.177 of 2014 against petitioner Rahul in CRR No.2617 of 2015. It is ordered accordingly and sentence is reduced to the period of two years.

However, it is made clear that petitioner Sonu Kumar in CRR No.3102 of 2015 titled as *Sonu Kumar Versus State of Haryana* would become entitled to be released after completion of sentence of two years.

It is further ordered that the petitioners would deposit a sum of

Rs.25,000/- each as fine/compensation before the trial Court within a period of three months from today which shall be disbursed to the complainant. In case the petitioners fail to deposit the fine of Rs.25,000/- each, they would be required to undergo the sentence as awarded by the trial Court and affirmed by the lower appellate Court.

Consequently, while maintaining the conviction of the petitioners-accused, the present revision petitions are disposed of with the aforesaid modification in the order of sentence.

A photocopy of this order be placed on the file of other connected cases.

October 28, 2015
Yag Dutt

(HARI PAL VERMA)
JUDGE