

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2186-2015 (O&M)
Date of Decision: December 14, 2015

Darshan Singh and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Harkanwar Jeet Singh, Advocate,
for the petitioners.

Mr. K.S. Pannu, DAG, Punjab,
for the respondent.

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

NARESH KUMAR SANGHI, J (Oral)

Challenge in this criminal revision petition is to the judgment dated 21.5.2015, passed by learned Additional Sessions Judge, Fazilka, whereby the appeal filed by the petitioners challenging their conviction and sentence for the offences punishable under Section 148 and Sections 323, 324 and 325 read with Section 149, IPC, recorded by learned Judicial Magistrate First Class, Fazilka, was dismissed.

Mr. Harkanwar Jeet Singh, Advocate, submits that in

view of concurrent findings of both the Courts below, holding the petitioners guilty for the offences punishable under Section 148, 323/149, 324/149 and 325/149, IPC, he would not challenge the conviction of the petitioners. He further submits that the quarrel had originated on account of illegally plying of the electric pump (motor) by injured persons, namely, Kulbeer Singh and Harbans Singh; the petitioners are first offenders; they are neither required nor involved in any other case; each petitioner has undergone more than six months of the substantive sentence; the injuries of Kulbeer Singh and Harbans Singh have healed and they are leading their normal life; the occurrence had taken place on 30.7.2008, thereafter seven years and four months have passed, but no untoward incident has taken place; during pendency of trial and appeal the petitioners were released on bail, but they did not misuse the said concession; during their incarceration, the petitioners are in process of improving themselves and the said fact can be verified from the affidavits of the Superintendent, Central Jail, Ferozepur, presented by learned counsel for the State, wherein it has been mentioned that each petitioner has earned remission during his jail sentence; the petitioners are ready to adequately compensate the injured

persons; and that every petitioner is sole bread-winner for his family.

Learned counsel for the State has no objection to the first prayer of learned counsel for the petitioners for not challenging the conviction of the petitioners. However, he submits that grievous injuries were caused to Harbans Singh and Kulbeer Singh, injured, therefore, no leniency is to be shown to the petitioners in their substantive sentences.

I have heard learned counsel for the parties and with their assistance gone through the material available on record.

Though learned counsel for the petitioners has opted not to challenge the conviction of the petitioners, yet to satisfy the conscience of this Court, the material available on record has been reappraised.

It is found that the present case was registered on 1.8.2008 on the statement of Kulbeer Singh (PW-1). He alleged that he alongwith Hardeep Singh had gone to the fields at night to provide meals to Harbans Singh and after reaching there started talking with each other. After some time, Hardeep Singh and Kulbeer Singh went to take a round of Guava orchard. At about 9:30 p.m., when Kulbeer Singh came back near the room

constructed in his fields, then he saw that the petitioners armed with *gandasi*, axe and *sotas* etc. emerged in their fields and caused injuries to Kulbeer Singh and Harbans Singh. As many as five injuries including two grievous injuries were received by Kulbeer Singh. On raising noise by the injured persons, the petitioners alongwith their weapons retired from the spot.

After medico-legal examinations and completion of the investigation, the charge-sheet (challan) was presented for prosecution of the petitioners. The charges for the offences punishable under Sections 148, 323, 324 and 325 read with Section 149, IPC, were framed against the petitioners to which they plead not guilty and claimed trial.

In order to substantiate its case, the prosecution examined Kulbeer Singh, informant/injured as PW-1; Harbans Singh, injured/eye witness as PW-2; Inspector Kashmir Singh (since retired) as PW-3; and Dr. Kavita, Medical Officer, as PW-4.

The statements of the petitioners in terms of Section 313, Cr.P.C., were recorded. They pleaded false implication.

Learned Trial Court held the petitioners guilty and awarded various terms of sentences. The appeal filed by the petitioners was also dismissed by learned Additional Sessions

Judge, Fazilka.

From the material available on record and going through the judgments passed by both the Courts below, this Court is also of the considered opinion that the conviction of the petitioners for the offences punishable under Sections 148, 323/149, 324/149 and 325/149, IPC, is well based and no interference of this Court is required. In view of the said fact, learned counsel for the petitioners has correctly opted not to challenge the conviction of the petitioners.

There appears to be substance in the alternative arguments of learned counsel for the petitioners that the petitioners are first offenders; the quarrel had originated on account of a dispute of running an electric water motor illegally; for the last approximately eight years the petitioners are facing the agony of trial, appeal and present petition; none of the petitioners is previous convict or involved in any other case; each petitioner has suffered substantive sentence of more than six months; and that during pendency of the trial, the petitioners remained on bail, but they did not misuse the said concession, therefore, the substantive sentences of the petitioners can be reduced to the period already undergone by them.

In view of above, the present criminal revision petition is partly allowed. The substantive sentences for the offences punishable under Sections 148, 323/149, 324/149 and 325/149, IPC, recorded by learned Judicial Magistrate First Class, Fazilka, are modified and reduced to the period already undergone by each petitioner. However, there would be no change in the order of fine and sentence passed in default of payment thereof.

Keeping in view the fact that Kulbeer Singh and Harbans Singh had received multiple grievous and simple injuries, the petitioners can be ordered to compensate them (injured persons). Resultantly, it is directed that each petitioner shall pay a sum of ₹10,000/- (rupees ten thousand only) [₹10,000/- x 6 = ₹60,000/- (rupees sixty thousand only)] as compensation to the injured persons, namely, Kulbeer Singh and Harbans Singh, to be divided equally amongst them, i.e. ₹30,000/- each (rupees thirty-thousand only), within two months of passing of this order. In default of payment of compensation, the order of sentence passed by learned Trial Court shall enure.

The amount of compensation granted by this Court shall be deposited by the petitioners with the learned Trial Court within stipulated period.

On deposit of the amount of compensation by the petitioners, learned Trial Court shall issue notices to the injured persons, Kulbeer Singh and Harbans Singh, for withdrawal of the said amount as per settled norms.

Since the petitioners are stated to be in custody, they are directed to be released immediately, if not required to be in custody in any other case.

(NARESH KUMAR SANGHI)
JUDGE

December 14, 2015
Pkapoor