

Crl. Revision No.282 of 2015

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

Crl. Revision No.282 of 2015 (O&M)

Date of decision: 14.05.2015

Surrender alias Kala and another

....Petitioners

Versus

State of Haryana

....Respondent

Crl. Revision No.283 of 2015 (O&M)

Tarshem and others

....Petitioners

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

Present: - Mr. Partap Singh, Advocate, for the petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Ashit Malik, Advocate, for the complainant.

PARAMJEET SINGH, J. (ORAL)

This order shall dispose of CRR No.282 of 2015 titled 'Surrender alias Kala and another v. State of Haryana' and CRR No.283 of 2015 titled 'Tarshem and others v. State of Haryana' as challenge in both the appeals is to the judgment dated 19.11.2014 passed by learned Additional Sessions Judge, Kaithal, and the judgment of conviction dated 20.12.2013 and order of sentence dated 24.12.2013 passed by learned Additional Chief Judicial Magistrate, Kaithal, whereby petitioners have been convicted and sentenced to pay fine of Rs.500/-

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each for commission of offence punishable under Sections 323/34 IPC, in default of payment of fine, to further undergo rigorous imprisonment for a period of one month, to undergo rigorous imprisonment for a period of two years and pay fine of Rs.1,000/- each for commission of offence punishable under Section 325/34 IPC, in default of payment of fine to further undergo rigorous imprisonment for a period of two months, to undergo rigorous imprisonment for a period of three years and pay fine of Rs.2,000/- each for commission of offence punishable under Section 326/34 IPC, in default of payment of fine to further undergo rigorous imprisonment for a period of three months and to undergo rigorous imprisonment for a period of one year and pay fine of Rs.500/- each for commission of offence punishable under Section 506/34 IPC, in default of payment of fine to further undergo rigorous imprisonment for a period of one month. All the sentences have been ordered to run concurrently.

I need not dilate upon the facts of this case in detail as the same have already been recapitulated in the judgments of the learned Courts below and in view of the ultimate prayer of the petitioners seeking reduction in sentence.

I have heard the learned counsel for the parties and perused the record.

Learned counsel for the petitioners states that he is not pressing this revision on merit and is not challenging the conviction on merit. He is only aggrieved against the sentence part. However, he prays

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that the sentence of the petitioners be suitably reduced as this criminal trial is hanging on their heads like damocle's sword for more than 6½ years and it should be a sufficient mitigating circumstance to treat them leniently. Learned counsel for the petitioners has further submitted that the FIR pertains to the year 2008 and since then a period of more than 6½ years has elapsed. The petitioners have suffered the ordeal for long period. The petitioners are young persons and now have reformed.

Learned counsel for the State and complainant vehemently opposed the reduction in sentence.

Ancient penological approach was custodial measure to curb crime. But in modern days, penological approach should be balanced keeping in view the needs of the community and interests of the accused: such as compensation to the victims, release on admonition, probation etc. These are being adopted to reform the criminal convicts. The object of criminal justice system is to reform the offenders and to make them see and follow the right path. Otherwise also jails are often overcrowded.

In view of the arguments advanced by learned counsel for the petitioners, which have been noted above, this Court is of the view that no useful purpose will be served by keeping the petitioners behind the bars further as the petitioners faced ordeal for a long period. It is a fit case wherein sentence awarded to the petitioners can be reduced to already undergone subject to payment of compensation to the victims under Section 357 Cr.P.C. Therefore, sentence of the petitioners is

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reduced to the period already undergone, subject to deposit of ₹ 2,00,000/- under Section 357 Cr.P.C with the trial Court, which shall be paid to the injured, in addition to the fine/compensation already imposed by the Courts below. Tarshem – petitioner No.1 in CRR No.283 of 2015 – shall deposit ₹ 1,00,000/- and remaining amount of ₹ 1,00,000/- shall be deposited by the remaining petitioners i.e. two in CRR No.282 of 2015 and two in CRR No.283 of 2015, proportionately i.e. ₹ 25,000/- each. The impugned judgments of conviction and orders of sentence, including default clause, stand affirmed with aforesaid modification. It is made clear that the petitioners shall be released only on deposit of the aforesaid amount and their sentence shall stand reduced upto their actual release. It goes without saying that if the amount of fine/compensation is not deposited, the petitioners will serve the remaining part of sentence.

With the observations made above, present revision petitions are disposed of with a direction that the petitioners be released immediately upon deposit of amount of fine/compensation, if not required in any other case and their sentence shall be treated reduced upto their actual release, as aforesaid.

(Paramjeet Singh)
Judge

May 14, 2015
R.S.