

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

**CRR NO. 2918 OF 2014 (O&M)
DECIDED ON : 08.01.2015**

Raj Kumar and another

...Petitioners

versus

State of Punjab

...Respondent

AND

CRR NO. 3152 OF 2014 (O&M)

Jaswant Kumar

...Petitioner

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE K. C. PURI

Present : Mr. A. S. Sivia, Advocate,
for the petitioner in
CRR No. 2918 of 2014.

Mr. Vikas Bishnoi, Advocate,
for the petitioner in
CRR No. 3152 of 2014.

Mr. Gurinderjit Singh, DAG, Punjab.

K. C. PURI, J. (ORAL)

Vide this common judgment, I intend to dispose of two revision petitions bearing **CRR No. 2918 of 2014** titled as, "**Raj Kumar and another vs. State of Punjab**" and **CRR No. 3152 of 2014** titled as, "**Jaswant Kumar vs. State of Punjab**", as the same have arisen out of the same FIR and same judgment of conviction and order of sentence.

Raj Kumar and Sita Ram have directed the instant revision petition bearing No. 2918 of 2014 against the judgment dated 22.08.2014 passed by Dr. Rakesh Kumar, Additional Sessions Judge (ASJ-III), Ferozepur, vide which the appeal preferred by the accused-appellants now revisionists against the judgment of conviction and order of sentence dated 15.02.2011 passed by Shri Ashok Kapoor, Sub Divisional Judicial Magistrate, Abohar, convicting and sentencing them under Sections 326/452/324/323/34 of the Indian Penal Code, was dismissed.

Jaswant Kumar has also preferred separate revision petition bearing No. 3152 of 2014 against the same judgment.

Briefly stated, the case of prosecution is that on 10.09.2001, one MLR regarding injured Lal Chand s/o Amin Chand was received in police station, upon which ASI Banta Singh reached Civil Hospital, Abohar. Upon asking, the doctor declared the injured unfit for making the statement. On 11.09.2001, ASI Banta Singh along with police officials again went to Civil Hospital, Abohar, where the doctor declared the

injured fit for making statement. Injured Lal Chand made statement to the effect that he is resident of village Chak Kala Tibba and they are five brothers. He is residing separately from his brothers and father. There is common wall in between his house and of his father. Yesterday at 7.30 PM, he was present in his house and his brother Jai Dayal had also come to his house. Sita Ram armed with kappa, Raj Kumar armed with gandasa, Jaswant Kumar armed with dang and Amin Chand came to his house. While entering his house, his father Amin Chand raised lalkara to catch hold him and not to spare him whereupon Sita Ram gave a kapa blow on his head from its sharp side which hit on the little finger of his left arm, Raj Kumar gave a gandasa blow from its sharp side which hit on his left arm, Jaswant Kumar gave dang blows on his left arm upon the upper side of little finger of left hand as well as on the palm of his left hand. The complainant raised raula "mar ditta mar ditta" which attracted his brother Jai Dayal, who got released him from the clutches of the accused persons. Jai Dayal also witnesses the whole occurrence. Thereafter all the accused fled away from the spot. While leaving, Sita Ram, Raj Kumar, Jaswant Kumar and Amin Chand took away three wooden battens, 6 chadars cement and link of tractor with them in the tractor trolley and also caused damage to the television. Thereafter the accused persons unloaded all the articles from the trolley and left the tractor in front of the house of complainant. On the basis of his statement, formal FIR was

registered. Investigation was carried out. Rough site plan was prepared. Statements of witnesses were recorded. After receipt of x-ray report, injury no.3 was declared as grievous and offence under Section 326 IPC was added. The accused were arrested. After completion of investigation, challan was presented in the Court.

Copies of challan as envisaged under Section 207 Cr.P.C, were supplied to the accused free of costs.

Charge under Sections 452/326/324/323/343/79/427 of the Indian Penal Code was framed against all the accused, to which they pleaded not guilty and claimed trial.

In order to bring home the guilt of accused, prosecution examined HC Avtar Singh as PW-1, Lal Chand injured/complainant as PW-2, Jai Dayal Kantiwal, Advocate as PW-3, Dr. Purshotam Ram as PW-4, ASI Kulwant Singh as PW-5, ASI Manta Singh as PW-6, Dr. Neerja Gupta as PW-7 and thereafter closed the prosecution evidence.

Statements of all the accused were recorded under Section 313 Cr.P.C and all the incriminating evidence was put to them to which they denied and claimed false implication.

All the accused were called upon to lead defence evidence. They examined Krishan Kumar as DW-1, Surjit Singh as DW-2, Basanti Devi as DW-3 and thereafter closed the evidence.

Learned trial Court, after appraisal of the evidence, convicted all the accused and sentenced them as under :-

Accused Sita Ram u/s 326 IPC

R.I for a period of one year and to pay fine of ₹1000/-, in default of payment of fine, to undergo RI for a further period of 15 days.

Accused Jaswant Kumar and Raj Kumar u/s 326 read with Section 34 IPC

RI for a period of one year and to pay fine of ₹1000/- each, in default of payment of fine, to further undergo RI for a further period of 15 days.

Accused Jaswant Kumar, Raj Kumar and Sita Ram u/s 452 IPC

RI for a period of one year and to pay fine of ₹1000/- each, in default of payment of fine, to undergo RI for a further period of 15 days.

Accused Jaswant Kumar, Raj Kumar and Sita Ram u/s 324/34 IPC

RI for a period of six months.

Accused Jaswant Kumar, Raj Kumar and Sita Ram u/s 323/34 IPC

RI for a period of three months.

However, all the sentences were ordered to run concurrently.

Feeling dissatisfied with the above said judgment of conviction and order of sentence dated 15.02.2011 passed by

Shri Ashok Kapoor, Sub Divisional Judicial Magistrate, Abohar, accused Raj Kumar and Sita Ram filed separate appeal bearing No.149 of 2011 whereas accused Jaswant Kumar filed separate appeal bearing No. 2 of 2011. Both the appeals were dismissed vide judgment dated 22.08.2014 passed by Dr.Rakesh Kumar, Additional Sessions Judge, (ASJ-III), Ferozepur.

Still feeling dissatisfied with the judgment of conviction/order dated 15.02.2011 passed by SDJM, Abohar and judgment dated 22.08.2014 passed by ASJ-III, Ferozepur, Raj Kumar and Sita Ram have preferred separate revision whereas Jaswant Kumar has filed separate revision petition. Since, both these revision petitions have arisen out of the common FIR and judgment, as such, the same are decided vide common order.

Learned counsel for the petitioners Raj Kumar and Sita Ram has not pressed the revision petition on merits and confined his prayer regarding quantum of sentence only.

Learned counsel for the petitioner Jaswant Kumar during the course of arguments, has also stated that he do not press the present petition on merits and confine his prayer regarding quantum of sentence only. Consequently, both the revision petitions are being decided vide common judgment.

No doubt learned counsel for the petitioner(s) have not challenged the conviction recorded by the trial Court but I have myself gone through the case file and do not find any case for interference in the conviction recorded by the trial Court. So,

the conviction recorded by the trial Court against all the revisionists stand affirmed.

Learned counsel for the petitioner(s) have submitted that according to the testimony of PW-4 Dr.Purshotam Ram, five injuries were found on the person of injured Lal Chand out of which injuries no.1 and 3 are incised wound whereas injuries no.2 and 5 were abrasion on the non-vital part whereas injury no.4 was on the little finger which was incised wound. It is further submitted that all the injuries except injury no.3 were simple in nature. Injury no.3 was on the little finger i.e on non-vital part. They have further submitted that the occurrence relates to the year 2001 and since then the petitioners are facing the agony of protracted trial. It is further contended that the petitioners are in custody since 22.08.2014 i.e for the last more than four and half months. They are neither previous convicts, nor involved in any other case. It is prayed that lenient view be taken regarding quantum of sentence. However, the complainant can be compensated under Section 357 Cr.P.C.

Learned State counsel has opposed the prayer made in both the petitions and has supported the judgments passed by the trial court.

I have considered the submissions made by both the sides and have gone through the records of the case.

The petitioners are facing trial for the last more than 13 years. There are five injuries in all on the person of injured Lal

Chand, out of which only one injury which was on the little finger, was declared grievous in nature. The remaining injuries were declared simple in nature.

Keeping in view whole of the circumstances mentioned above, the sentence of all the petitioners stand reduced to the period already undergone by them. However, each of the petitioners is directed to pay a compensation of ₹20,000/- to the injured Lal Chand. The said amount be deposited before the trial court within two months from the date of receipt of certified copy of this order, failing which, both the revision petitions would be deemed to have been dismissed.

The petitioners are stated to be in custody. They be released forthwith on deposit of ₹20,000/- each and if not required in any other case.

With the aforesaid observations, both the revision petitions stand disposed of accordingly.

The copy of order be sent to the concerned quarters for strict compliance.

JANUARY 08, 2015
shalini

(K. C. PURI)
JUDGE