

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

CRR-2916-2015 (O&M)

Date of Decision: September 10, 2015

Gurvinder Singh and others

.....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.A.S.Virk, Advocate
for the petitioners.
Mr.Pawan Gaur, DAG, Haryana.

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

NARESH KUMAR SANGHI, J.(ORAL)

Challenge in the present criminal revision petition is to the judgment dated 05.08.2015 passed by learned Additional Sessions Judge, Kaithal, whereby the appeal filed by the petitioners challenging their conviction and sentences for the offences punishable under Sections 148, 186, 332 and 353 read with Section 149, IPC, recorded by learned Sub-Divisional Judicial Magistrate, Guhla, was dismissed.

When the case came up for preliminary hearing before this Court on 12.08.2015, at that time learned counsel for the

petitioners confined his prayer with regard to quantum of sentence only. At that time learned counsel for the petitioners proposed not to contest the case on merits since both the Courts have gone against him, therefore, he confined his prayer with regard to quantum of sentence only.

Notice of motion was issued and in pursuance thereof learned counsel for the State has put in appearance and produced seven affidavits of Superintendent, Distirct Jail, Kaithal, showing the period of incarceration suffered by the petitioners, which are taken on record.

Learned counsel contends that the petitioners are the first offenders; the maximum sentence awarded by learned trial Court and affirmed by learned Court of Session is rigorous imprisonment for six months; as per provisions of Section 360, Cr.P.C., the petitioners should have been released on probation since they are the first offenders and none of them is required or involved in any other case; during pendency of the trial and appeal, the petitioners were released on bail but they did not misuse the said concession and that all the petitioners are bread winners for their respective families. Learned counsel further pointed out that on account of a mob mentality the incident had occurred at the spur of moment and, in fact, there was no pre-

planned quarrel with the public servants and that the petitioners undertake to mend themselves if they are ordered to be released on probation. He further submits that during their incarceration in the jail, the petitioners have not committed any jail offence which would further show that they are improving themselves. In support of his contention, learned counsel for the petitioners has placed reliance on **Kuldip Chand vs State of Punjab**, 2013(1) R.C.R. (Criminal) 636, **Akhtar and another vs State of Haryana**, 2013(2) Law Herald 1016, **Ved Parkash vs State of Punjab**, 2003(2) R.C.R. (Criminal) 823 and **Jaspal Singh vs State of Punjab** 2012 (4) Law Herald 3295, wherein the convicts for the offences punishable under Sections 332 and 353, IPC, were released on probation.

Learned counsel for the State has not controverted the factual aspects raised by learned counsel for the petitioners. However, he submits that the Courts below have already taken a lenient view while awarding the sentence of rigorous imprisonment for six months for the offences punishable under Sections 332 and 353, IPC, therefore, there is no scope for further reduction of the sentence.

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

record.

Perusal of the material available on record reveals that PW3 to PW6 have fully supported the prosecution version which has further been corroborated by the medical evidence. Police officials connected with the investigation of the case would further strengthen the narration of PW3 to PW6.

In view of the above, this Court is of the opinion that the Courts below have rightly held the petitioners guilty for the offences punishable under Sections 148 read with Section 149, IPC, 186 read with Section 149, IPC, 332 read with Section 149, IPC, and 353 read with Section 149, IPC, and, as such, learned counsel for the petitioners had correctly opted not to challenge their conviction.

There appears to be substance in the submissions of the learned counsel for the petitioners that there are circumstances on the basis of which the substantive sentences awarded to the petitioners can be said to be on higher side. In the cases cited by the learned counsel for the petitioners the convicts were released on probation. In the case in hand each of the petitioners has suffered incarceration for about one month, therefore, substantive sentences of the petitioners for all the offences for which they have been convicted are reduced to the

period already undergone by them. The fine imposed by learned trial Court is maintained. Learned counsel for the petitioners has pointed out that the fine was deposited before learned trial Court. This Court is of the opinion that the petitioners be also burdened with the amount of compensation to be paid to injured Hazoor Singh (PW4) and Salwinder Singh (PW5). Each petitioner would pay ₹5,000/-, i.e. (₹5000/- x 7= ₹35,000/-)Rupees thirty five thousand only to PW4 and PW5. The same shall be deposited with the learned trial Court within one month of their release from the jail. On receipt of amount of compensation from the petitioners, the learned trial Court shall issue notices to PW4 and PW5 to withdraw the said amount in equal share, as per norms. In case any one of the petitioners fails to comply with the order of payment of compensation, then the order of sentence passed by the Court below shall be maintained qua the defaulter.

The petitioners who are stated to be in custody be released at once, if not required in any other case.

With the above modification in the order of sentence, the present criminal revision petition is partly allowed.

September 10, 2015
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(NARESH KUMAR SANGHI)
JUDGE