

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

CRR No.3188 of 2014 (O&M)
Date of decision: 24th March, 2015

Vishal Kohli and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. Whether to be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Gorakh Nath, Advocate for the petitioners.
Mr. C.S. Brar, Dy. Advocate General, Punjab.
Mr. Anish Garg, Advocate for respondent No.2.

FATEH DEEP SINGH, J.

The revisionist/convicts Vishal Kohli and his wife Vishali Kohli against whom on the allegations of Naresh Garg complainant, criminal case by way of FIR 86 dated 26.04.2008 under Sections 452, 323, 324, 427, 506, 147 read with Section 34 IPC was registered at Police Station Mandi Gobindgarh, have sought setting aside of the judgments of conviction and orders of sentence passed by the two courts below.

The brief allegations are that on 26.04.2008 around 12.30 a.m. both the husband and wife who are neighbours of the

complainant forcibly trespassed into the house of the complainant and assaulted him and also vandalized household articles.

After trial, the Court of learned Judicial Magistrate (1st Class), Amloh through judgment and order of sentence dated 31.08.2013 found the accused guilty for commission of offences under Sections 452/323/324/506 IPC and sentenced them to undergo RI for 1 year and to pay a fine of ₹500 each and in case of default to further undergo RI for 15 days for offences under Sections 452 and 323 IPC and simplicitor for 1 year under Sections 323 and 506 IPC. The same was challenged before the learned Additional Sessions Judge, Fatehgarh Sahib who through impugned judgment dated 23.09.2014 dismissed their appeal. It is these findings which are under challenge before this Court.

Heard Mr. Gorakh Nath, Advocate for the petitioners, Mr.C.S. Brar, Deputy Advocate General, Punjab and Mr. Anish Garg, Advocate for respondent No.2.

The sole contention raked up on behalf of the revisionists by their counsel Mr. Gorakh Nath is over the quantum of sentence so awarded and has prayed on the grounds that the couple has small children and they are the sole members, bread winners and looking after the children, earning and maintaining them and that there is no history of their previous conviction and have already undergone imprisonment for a period of more than five months. Though the same is being opposed on behalf of the respondents, however, taking into consideration totality of circumstances that both the complainant and the convict/revisionists are immediate neighbourers and there is not

much of material dispute between them. They have been convicted for commission of offences of house trespass with preparation to cause hurt/assault and for causing hurt as well as hurt by dangerous weapons and means, mischief for causing loss to their property worth ₹50/- and criminal intimidation.

Learned State counsel could not show if any of the injuries are on the vital part of the body or are caused by any dangerous weapons or means and apparently the occurrence is an outcome of a sudden human reaction. Thus, having regard to the background of the accused party, keeping them behind bars would not only give rise to more hatred, ill-will and enmity and they would be exposed to bad elements forcing them to adopt the path of crime and which would have its own repercussions on the future of their small children. Thus espousing the theory of reformation keeping in view that the revisionists have already undergone almost half of the sentence so awarded and there is no due consideration by the courts under Section 360 Cr.P.C. and it would subserve the ends of justice if the convict/revisionists are shown leniency by setting off as undergone the sentence of imprisonment already undergone by them, however, subject to the payment of fine so awarded.

With this, the instant revision petition is disposed off in those terms. Necessary intimation be sent.

(FATEH DEEP SINGH)
JUDGE

March 24, 2015

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