

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No. 3363 of 2015 (O&M)
Date of Decision: 29.10.2015

Sonu Singh & another

...Petitioner(s)

Versus

The State of Punjab & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

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

Present:- Ms. Kuljeet Kaur, Advocate
for the petitioner (s).

Mr. S.S. Gill, DAG, Punjab.

Mr. L.S. Sidhu, Advocate
for respondent nos.2 and 3.

HARI PAL VERMA J.

Petitioners namely Sonu Singh son of Surinder Singh and Deep Singh son of Harbhajan Singh have filed the present revision petition against the judgment dated 15.7.2015 passed by learned Additional Sessions Judge, Ludhiana, whereby appeal filed by the petitioners against the judgment of conviction and order of

sentence dated 7.12.2011 passed by Judicial Magistrate Ist Class, Ludhiana has been dismissed. Learned Judicial Magistrate Ist Class, Ludhiana has convicted and sentenced the petitioner as under:-

Offence under Section	Sentence	In default of payment of fine
<i>U/s 332 of Indian Penal Code</i>	<i>Both the convicts shall undergo Rigorous imprisonment for a period of one year and fine of Rs.1,000/- (Rupees one thousand only) will be paid by each accused.</i>	<i>In default of payment of fine to further undergo simple imprisonment for a period of seven days.</i>
<i>U/s 353 of Indian Penal Code</i>	<i>Both the convicts shall undergo Rigorous imprisonment for a period of one year and fine of Rs.1,000/- (Rupees one thousand only) will be paid by each accused.</i>	<i>In default of payment of fine to further undergo simple imprisonment for a period of seven days.</i>
<i>U/s 186 of Indian Penal Code</i>	<i>Both the convicts shall undergo Rigorous imprisonment for a period of three months.</i>	

All the sentences shall run concurrently.

There seems to be a typographical mistake in the order of sentence passed by the trial Court, as the amount of fine has been mentioned as Rs.500/- in figures, whereas in words, it is mentioned as Rs.1,000/- in words. However, as per custody

certificate, the amount of fine imposed by the trial Court has been mentioned as Rs.1,000/-.

Briefly stated, the case of the prosecution is that on 31.7.2009, Tara Singh, driver, and Swaranjit Singh, conductor, gave an application along with medical slip No.709 of 28.7.2009 of Tara Singh and slip No.707 of Swaranjit Singh, to the effect that Swaranjit Singh, conductor No.140, is working in Punjab Roadways Depot, Ludhiana. On 27.7.2009 at about 7.50, when they left in bus for Mankiran Sahib and crossed Gill Chowk after taking passengers, then a mini bus No.PB-10-AD-7867 was already standing in front of their bus and many buses were behind their bus. He asked the conductor of the mini bus to move his bus to a side as they wanted to move their bus. However, the conductor did not move his bus, which led to altercation. Then the complainant-respondent no.3 asked the driver of the mini bus to move the bus. In the meantime, two Hindu boys came down from the mini bus and started beating him. On this, driver Tara Singh, respondent no.2, came to rescue him. Then the conductor of the mini bus caught hold of the arms of Tara Singh and the driver of the mini bus also came there. They all four started beating them. Then the passengers also reached at the spot. Gurcharan Singh Sandhu and other staff members rescued him. They caught the driver and conductor of the mini bus, but the other boys who were beating them, fled away from the spot. Thereafter, they took the driver and conductor of mini bus to Atam Park Police Post, where the police officials asked them to go to the

hospital for their medical examination and to go to Police Station Division No.6, as the place of occurrence falls under the jurisdiction of that police station. Then they took the driver and conductor of the mini bus to Police Station, Division No.6, who made them to sit there. In these circumstances, case was registered. The police conducted investigation and submitted challan, as provided under Section 173 CrPC and the accused were supplied copies of the challan and documents, as relied upon by the prosecution free of cost, as provided under Section 207 CrPC.

Learned trial Court vide judgment dated 7.12.2011, convicted the petitioners for offences punishable under Sections 186, 353 and 332 IPC and awarded them maximum sentence of one year, as indicated above.

Against the aforesaid conviction and sentence, the petitioners preferred appeal, however, the said appeal was dismissed by learned Additional Sessions Judge, Ludhiana vide judgment dated 15.7.2015 and the petitioners were taken into custody. Since then, the petitioners are in custody.

It is against the aforesaid judgments of the Courts below, the petitioners have preferred the instant revision petition.

Along with the revision petition, the petitioners have also filed an application i.e. CRM-29453-2015 under Section 482 CrPC read with Section 320 CrPC for permitting the petitioners to allow the offences to be compounded in the light of compromise dated 28.8.2015. The compromise is signed by Tara Singh son of Jarnail

Singh and Swaranjit Singh son of Sadhu Singh on one side and Sonu Singh son of Surinder Singh and Deep Singh son of Harbhajan Singh, petitioners, on the other side.

Learned counsel for the petitioners submitted that since the matter has been compromised between the parties at this revisionary stage, the sentence awarded to the petitioners be reduced to the period already undergone by them. He further submitted that the petitioners are in custody since 15.7.2015 and there is no other case against them. He relies upon a Division Bench judgment of this Court in the case of **Vinod @ Boda and others v. State of Haryana and another CRM-M-31765 of 2012** to contend that in similar circumstances, this Court while acting on the compromise, has allowed compounding of offences despite the fact that the offences were not compoundable. He further submitted that in view of law laid down by Hon'ble the Supreme Court in **Gian Singh vs. State of Punjab and others, (2012)10 SCC 303** and Division Bench judgment of this Court in the case of **Vinod @ Boda and others v. State of Haryana and another** (*supra*), High Court is well within its power under Section 482 CrPC to allow compounding of offences.

Learned counsel for the complainant-respondents No.2 and 3 has filed affidavits of Tara Singh son of Jarnail Singh (respondent no.2) and Swaranjit Singh son of Sadhu Singh (respondent no.3) to support the case of the petitioners and submitted that the parties have compromised the matter and both

the sides want to reside peacefully. The affidavits are taken on record.

On the other hand, learned State counsel has filed custody certificate of the petitioners which are taken on record. As per the custody certificate, as against the awarded maximum sentence of one year, the petitioners are in custody for the last about 3½ months.

I have heard learned counsel for the parties.

Tara Singh, respondent no.2 and complainant-respondent no.3-Swaranjit Singh are present in Court and they have duly been identified by their counsel. They have acknowledged the factum of execution of compromise between the parties, though at this revisionary stage.

This Court in **Vinod @ Boda and others v. State of Haryana and another** (*supra*), has considered the case of similar nature and held that the power of the Court under Section 320 CrPC to compound offences on the basis of compromise between the accused and the victim can be invoked only if the offence is compoundable and this power under Section 320 CrPC is not exercisable if the offence is non-compoundable in nature, but at the same time, refusal to invoke power under Section 320 CrPC for non-compoundable offence does not debar the High Court from resorting to its inherent power under Section 482 CrPC and the High Court is competent to pass an appropriate order while invoking proceedings

under Section 482 CrPC so as to secure the ends of justice. The magnitude of inherent jurisdiction exercisable by High Court with a view to prevent the abuse of law or to secure the ends of justice is wide enough to include its power to quash the proceedings in relation to non-compoundable offences, including the ones involved in the present case, notwithstanding the power under Section 320 CrPC. There is no dispute that learned Magistrate has convicted the petitioners for offences under Sections 186, 353 and 332 IPC and the learned Additional Sessions Judge has dismissed the appeal against the said judgment.

Accordingly, keeping in view the law laid down by Hon'ble the Supreme Court in **Gian Singh vs. State of Punjab and others**, (*supra*) as well as the Division Bench judgment of this Court in the case of **Vinod @ Boda and others v. State of Haryana and another** (*supra*) and considering the fact that the parties have compromised the matter, while upholding the conviction of the petitioners, the sentence awarded to them is reduced to the period already undergone by them. The petitioners are ordered to be released forthwith, if they are not required in any other case. Both the parties shall remain bound by the terms of their compromise.

The revision petition is disposed of with the aforesaid modification of sentence by upholding the judgment of conviction.

October 29, 2015
AK

(HARI PAL VERMA)
JUDGE