

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

CRR No. 3378 of 2014
Date of decision 02.02.2015.

Inder Singh & others

..... Petitioners.

versus

State of Haryana

..... Respondent.

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

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

Present : Mr. Anil Ghanghas, Advocate for petitioners.
Mr. Rajesh K. Sheoran, Additional AG, Haryana.

K.C.PURI, J.

Challenge in this revision is the judgment dated 23.09.2014 passed by Dr. Abdul Majid, Additional Sessions Judge, vide which the appeal preferred by the accused/petitioners against the judgment dated 2.2.2012 and order dated 3.2.2012 passed by Mr. Narender Sharma, learned Sub Divisional Judicial Magistrate, Charkhi Dadri convicting the accused under Sections 323, 324, 325 and 326 of the of the Indian Penal Code (in short – the IPC), and sentenced to undergo rigorous imprisonment for a period of six months under Section 323 of the IPC : to further undergo

rigorous imprisonment for a period of one year under Section 324 of the IPC ; to further undergo rigorous imprisonment for a period of one year ; to pay fine of Rs.300/- each under Section 325 of the IPC and to further undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- each under Section 326 of the IPC was partly dismissed whereas accused/petitioners Roshni and Manju were ordered to be released on probation under Section 428 of the Cr.P.C., and the sentence of accused Inder Singh and Kartar Singh was also reduced to six months from one year rigorous imprisonment.

2. The prosecution story in brief is that on 25.10.2002 one medical ruka along with MLRs of injured Pawan Kumar as well as that of Sunil Kumar was received in the police station and thereafter one VT message was also received. On the basis thereof, HC Hari Ballab along with his police team reached CHC, Gopi and recorded the statement of injured Pawan Kumar. It is stated therein that on 24.10.2002 at about 6.30a.m., complainant was irrigating his fields by the generator with the help of a tractor whereas his brother Sunil was sitting near the generator. In the meantime, Roshani and Manju accused were connecting pipeline from the field of the complainant, which was objected by the complainant. Thereafter, these two lady members told the complainant that the land was owned by them and they also insisted for the pipeline from that place only. Thereafter both Roshani and Manju started hurling abuses to the complainant and also gave slap and fist blows. In the meantime, Inder Singh, Kartar, Narender and Pardeep came there. Kartar gave sariya (rod)

blow on the back side of the neck of the complainant and also gave two sariya blows on his head. The complainant fell down on the land, thereafter, Narender who was armed with knife gave a knife blow on his left ear. Pardeep who was armed with an axe gave a blow of the same which hit on little finger of the left hand of the complainant. Complainant raised alarm, upon which his brother Sunil reached to the spot and when he tried to rescue the complainant, then all these accused persons inflicted injuries on the person of Sunil also with the help of their respective weapons. After inflicting the injuries, accused ran away from the spot with their respective weapons. On the basis of aforesaid statement, FIR was got recorded. Medico-legal examination of the injured was got conducted. Statements of the prosecution witnesses were recorded. After completion of necessary investigation challan against the accused was presented in the Court.

3. Copies of the documents were supplied to the accused free of costs. The Illaqua Magistrate framed charge for offences punishable under sections 323, 324, 325 and 326 read with Section 34 of the IPC to which, the accused pleaded not guilty and claimed trial.

4. In support of its case, the prosecution examined HC Narerssh Kumar as PW-1, Pawan as PW-2, Sunil as PW-3, Dr. Vijay Malik as PW-4, HC Suresh Kumar as PW-5, ASI Hari Ballab as PW-6, Dr. Anil Sharma as PW-7 and closed the prosecution evidence.

5. In their statements recorded under Section 313 Cr.P.C., the accused have denied all the prosecution allegations and pleaded their false implication.

6. The trial Court, after hearing the learned counsel for the parties convicted and sentenced the accused from the charges levelled against them vide judgment dated 2.2.2012 and order dated 3.2.2012, as aforesaid.

7. Feeling dissatisfied with the aforesaid judgment dated 2.2.2012 and order dated 3.2.2012, the accused-appellants preferred appeal before the learned Sessions Judge, Bhiwani. The learned Additional Sessions Judge, Bhiwani vide judgment dated 23.09.2014 partly dismissed the appeal of the accused/appellants, as aforesaid.

8. Feeling dissatisfied with the aforesaid judgments and order, the present revision petition has been directed by the accused/petitioners.

9. I have heard learned counsel for the parties and have carefully gone through the case file.

10. Learned counsel for the accused-petitioners has submitted that so far as Inder Singh and Kartar Singh are concerned, they have already undergone the incarceration reduced by the First Appellate Court and as such their petition be dismissed as having been rendered infructuous.

11. So, in these circumstances, the petition preferred by Inder Singh and Kartar Singh accused-petitioners stands dismissed as having become infructuous.

12. So far as the petition preferred by Narender Singh accused-petitioner is concerned, learned counsel for the petitioner-Narender Singh has submitted that First Appellate Court has reduced the sentence of Inder Singh and Kartar Singh accused-petitioners from one year to six months whereas the sentence of Narender Singh has not been reduced by giving

reason that he has used knife for inflicting injury on the ear. It is submitted that an argument was raised before the trial Court that Narender Singh is suffering from mental disorder but that contention was repelled by the Appellate Court on the ground that the same is not supported by any evidence. However, counsel for the petitioner has submitted that appellant Narender Singh has produced medical report in which it is mentioned that he is a psychiatric patient and he is taking psychiatric treatment from PGIMS, Rohtak.

13. As per conviction slip, petitioner- Narender Singh has undergone incarceration for a period of five months and fifteen days including remissions of one month and six days as on 15.1.2015 out of the substantive sentence of imprisonment awarded by the trial Court. So, in this manner he has already undergone incarceration for a period of more than six months including remissions. The injury attributed to the accused-petitioner is simple in nature. Roshani and Manju, the other two accused have been allowed the concession of probation by the learned Additional Sessions Judge, Bhiwani and that order has not been challenged by the State. It is further contended that occurrence relates to 24.10.2002 i.e. more than twelve years ago. So, prayer has been made for taking lenient view regarding quantum of sentence.

14. The State counsel has opposed the prayer but has admitted the fact that accused is facing trial for the last more than 12 years and has undergone incarceration for a period of more than six months including remissions. He has also admitted that sentence of other two appellants

Inder Singh and Kartar Singh accused-petitioners has been reduced to six months by the Appellate Court. He has also admitted that other two accused Roshni and Manju have been allowed concession of probation and no appeal has been preferred by the State. The State counsel has also not disputed that Medical Officer, from Jail Hospital has given a certificate that Narender Singh is a psychiatric patient and he is taking psychiatric treatment from PGIMS, Rohtak.

15. So, considering all the circumstances, in my view, end of justice would be met in case the sentence awarded by the trial Court and affirmed by the Appellate Court is reduced to the period already undergone by accused-petitioner Narender Singh. And I order accordingly. However, the sentence of fine stands affirmed.

16. The accused-petitioner Narender Singh be released forthwith on deposit of fine, if he has already not deposited.

17. In the manner indicated above, the revision petition stands disposed of accordingly.

18. A copy of this order be conveyed to the trial Court for strict compliance.

February 02, 2015

SV

(K. C. PURI)
JUDGE