

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

**Criminal Revision No.4089 of 2014(O & M)
Date of Decision:-09.04.2015**

Naib Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

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:- Mr. K.B.S. Mann, Advocate
for the petitioners.

Mr. Sultan Singh Gill, DAG Punjab.

HARI PAL VERMA J.(Oral)

The petitioners namely, Naib Singh son of Hazura Singh and Pavitar Singh son of Naib Singh were convicted by the learned Additional Chief Judicial Magistrate, Bathinda for commission of offence punishable under Sections 323, 325 and 341 IPC read with Section 34 IPC, vide judgment dated 13.3.2014. On appeal having been preferred by the petitioners, learned Additional Sessions Judge, Bathinda, vide judgment dated 4.11.2014 reduced the sentence to half and dismissed the appeal. Thus, for the offence under Section 325 IPC, sentence was reduced from two years to one year rigorous imprisonment, whereas conviction and

sentence for offence under Sections 323 and 341 IPC was upheld by the learned Additional Sessions Judge, Bathinda and all the petitioners were ordered to be taken into custody. The sentence awarded to the petitioners by learned Additional Chief Judicial Magistrate, Bathinda is detailed as under :-

<i>Sr. No.</i>	<i>Name of convict</i>	<i>Sentence U/S</i>	<i>RI awarded</i>	<i>Fine</i>	<i>In default of payment of fine to further RI for</i>
1	Naib Singh	325 IPC	2 years	Rs.1000/-	One month
2	Pavitar Singh	325/34 IPC	2 years	Rs.1000/-	One month
3	Pavitar Singh	323 IPC	6 months	Rs.200/-	One month
4	Naib Singh	323 IPC	6 months	Rs.200/-	One month
5	Both accused	341 IPC	15 days each	Rs.200/-each	-----

Subsequently, after filing of appeal, learned Additional Sessions Judge, Bathinda modified the sentence as under :-

<i>Sr. No.</i>	<i>Name of convict</i>	<i>Sentence U/S</i>	<i>RI awarded</i>	<i>Fine</i>	<i>In default of payment of fine to further RI for</i>
1	Naib Singh	325 IPC	1 year	Rs.1000/-	One month
2	Pavitar Singh	325/34 IPC	1 year	Rs.1000/-	One month
3	Pavitar Singh	323 IPC	6 months	Rs.200/-	One month
4	Naib Singh	323 IPC	6 months	Rs.200/-	One month
5	Both accused	341 IPC	15 days each	Rs.200/-each	-----

Notice of motion was issued in the case on 17.12.2014. However, on 5.2.2015 on oral request of the petitioner, complainant-injured Roop Singh was ordered to be impleaded as respondent No.2. In response to said notice, respondent No.2-complainant is present in the Court.

At the outset, Learned counsel for the petitioners has stated

that he does not challenge the judgments on merits, rather prays for reduction of the sentence awarded to the petitioners. The grounds pleaded are that the petitioners are not only the first offenders, rather have suffered the agony of protracted trial since the year 2009. It is submitted that as against the substantive sentence of one year, the petitioners have already undergone five months. He has further submitted that the allegations against the petitioners are that the petitioners have caused fracture on the left forearm of the complainant. Accordingly, learned counsel for the petitioners prays for releasing them as the period already undergone by them.

Learned counsel for the petitioners has placed reliance in the case of ***Shiv Kumar vs. State of Haryana*** 2014(3) RCR (Criminal) 577 wherein this Court has observed as under :-

“5. Considering the facts that the petitioner has been quite young when the occurrence took place, there is no previous conviction to his discredit and he has already suffered imprisonment for a period of one month and 24 days, I find him to have not crossed the age where his behaviour could not be corrected. Therefore, he appears to be entitled to be released on probation of good conduct. However, compensation in a sum of Rs.20,000/- would be just and proper to be paid by the petitioner to the victim, Sarla Devi.”

In the case of ***Sohan Lal vs. State of Punjab*** 1979 CLJ (Criminal) 113 where the accused was first offender and has undergone the sentence of 3-½ months, his sentence was reduced to already undergone.

In **CRR No.2574 of 2012, decided on 31.10.2012 titled**

'Balwinder Singh vs. State of Punjab', this Court has reduced the sentence of the accused in a similar case under Sections 323, 325 and 326 IPC.

Learned State counsel though has opposed the prayer of the petitioners to convict the petitioners as undergone, but does not dispute the fact that the petitioners are the first offenders and are in custody for the last about five months. Learned State counsel has filed the custody certificate of the petitioners reflecting the custody of the petitioners for about five months. The custody certificate also substantiates the fact that the petitioners are not involved in any other case.

Considering the fact that the petitioners have suffered a protracted trial since the year 2009, and there is no previous conviction to their discredit and have already suffered imprisonment for a period of five months, I find that they have not crossed the age where their behaviour could not be corrected. Therefore, their sentence is allowed to be reduced to the period of imprisonment already undergone by them. However, the complainant, who has suffered the injury deserves to be compensated and it would be just and proper that the victim is to be paid a sum of Rs.20,000/- by the petitioners.

In these circumstances, the present petition is partly allowed and while upholding the judgments of conviction passed by the Courts below the sentence awarded by the learned Additional Sessions Judge, Bathinda, is reduced to the period already undergone. The petitioners are directed to pay a sum of Rs.20,000/- as compensation to the injured-complainant. The compensation shall be paid before the trial Court within

one month, failing which the present revision petition shall stand dismissed.

April 09, 2015
Vijay Asija

(*HARI PAL VERMA*)
JUDGE