

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

CRR-755-2015(O&M)

Date of Decision: September 9, 2015

Jai Singh @ Billa and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Navkiran Singh, Advocate and
Mr.Surajpreet Singh, Advocate
for the petitioners.

Mr.K.S.Pannu, DAG, Punjab.

Ms.Aruna Sachdeva, Advocate
for informant-respondent No.2 and both the injured
persons, namely, Anil Kumar @ Anil Bansal and Pawan
Kumar @ Pawan Bansal.

.....

1. ***Whether Reporters of local papers 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?***

NARESH KUMAR SANGHI, J.(Oral)

Learned counsel for the parties are *ad idem* that the
present criminal revision petition can be disposed of at this
stage.

Shri Navkiran Singh, learned counsel for the petitioners submits that in view of the concurrent findings of both the Courts below, he does not challenge the conviction of the petitioners. He further submits that as per prosecution version, a quarrel had taken place on account of payment of ₹1,50,000/- (Rupees one lac and fifty thousand only) to Mukesh Bansal, Anil Kumar @ Anil Bansal and Pawan Kumar @ Pawan Bansal by the petitioners; none of the petitioners is a previous convict; Petitioner Nos.1, 2 and 4, namely, Jai Singh @ Billa, Dharambir Singh @ Bora and Sunil Kumar had allegedly caused the simple injuries attracting the mischief of Section 323, IPC, only; the petitioners were on bail during the pendency of the trial and appeal. Petitioners Jai Singh @ Billa, Dharambir Singh @ Bora and Sunil Kumar have been extended the benefit of suspension of sentence by this Court; during the bail period, the petitioners did not misuse the concession of bail; petitioners are facing the agony of trial, appeal and the present revision petition for the last more than 5 years and 7 months and that the maximum sentence prescribed for the offences for which the petitioners have been held guilty is rigorous imprisonment for seven years, therefore, they should have been extended the benefit of Probation of

Offenders Act, 1958. In alternative, he submits that the petitioners are ready to adequately compensate the injured/aggrieved persons. It has also been pointed out that petitioner Nos.3 and 5, namely, Raj Kumar and Bajrang @ Bajransi have already suffered incarceration for almost 7 months. Petitioner Jai Singh has undergone almost 4 months, petitioner Dharamvir has suffered incarceration for 4 ½ months and petitioner Sunil Kumar has also suffered incarceration for approximately two months and twenty days and that the fine imposed by learned trial Court was deposited before the said Court at the time of releasing them on interim bail enabling them to file appeal before the Court of Session. Learned counsel has further pointed out that during the last 5 years and 7 months, no other incident of similar nature between the private parties had taken place.

Learned counsel for the State has not disputed the factum of the substantive sentences suffered by each petitioner. However, he submits that the learned Courts below have awarded the adequate sentence, therefore, no interference is called for so far as the substantive sentences passed against the petitioners is concerned.

Learned counsel representing the injured/aggrieved persons submits that if this Court considers the case of the petitioners with regard to quantum of sentence, then adequate compensation be awarded to the injured/aggrieved persons, who had sustained the grievous injuries.

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

Though there is no necessity to narrate the facts of the case since the counsel representing the petitioners has confined his arguments with regard to quantum of sentence only, yet to give a clear picture it is essential to narrate the facts in brief.

First Information Report was registered on the complaint of Mukesh Bansal. He disclosed that on 17.01.2010 at about 7.30 p.m. when he along with his father Pawan Kumar @ Pawan Bansal and uncle Anil Kumar @ Anil Bansal was present at his shop and were talking to each other, then the petitioners carrying base ball bats and sticks arrived there and caused injuries to Pawan Kumar @ Pawan Bansal, Anil Kumar @ Anil Bansal and Mukesh Bansal. The neighbours and the passers-by rescued the injured persons from the clutches of the petitioners.

While retiring from the spot, the petitioners extended threat to kill the injured persons. The petitioners were admitted in a Government Hospital at Chandigarh. The motive of the quarrel was that one Sunil Kumar Garg had borrowed Rs.1,50,000/- (Rupees one lac and fifty thousand only) from injured Anil Kumar @ Anil Bansal. Three-four days prior to the incident when Sunil Kumar Garg was requested to return the amount, then the petitioners caused injuries to the injured persons.

After thorough investigation, charge-sheet (report under Section 173, Cr.P.C.) was presented for prosecution of the petitioners for the offences punishable under Sections 120-B, 323, 325 and 506 read with Section 34, IPC.

Finding a prima facie case the charges for the above said offences were framed by the learned trial Court.

In order to substantiate its case, the prosecution examined Pawan Kumar @ Pawan Bansal as PW1, Anil Kumar @ Anil Bansal as PW2, Mukesh Bansal as PW3, ASI Amrit Lal as PW4, IO Kishore Chand as PW5 (partly examined in chief), ASI Narinder Singh as PW6, Dr.Sanjay Singla as PW7, HC Parminder Singh as PW8, C Gurtej Singh as PW9, and Dr.Karam Singh as PW10.

Statements of the petitioners in terms of Section 313, Cr.P.C., were recorded. They denied all the incriminating circumstances appearing against them and pleaded innocence.

No evidence in defence was led by the petitioners.

Learned trial Court held the petitioners guilty for the offences punishable under Sections 120-B, 323 read with Section 34, IPC, 325 read with Section 34, IPC and 506 read with Section 34,IPC, and awarded the following sentences:-

Under Sections	Sentence (R.I)	Fine (in ₹)	In default (R.I.)
120-B, IPC	Six months	-	-
323 r/w 34, IPC	Six months	-	-
325 r/w 34, IPC	One year	200/-	2 days
506 r/w 34, IPC	Six months	-	-

All the sentences were ordered to run concurrently.

Dissatisfied with the judgment of conviction and order of sentence, appeal was presented before the Court of Session and the same was dismissed. However, compensation amounting to ₹35,000/- (Rupees thirty-five thousand only) was granted to all the injured/aggrieved persons.

Still dissatisfied with the judgment of learned appellate Court, the petitioners preferred the present criminal revision petition.

After going through the material available on record, this Court is satisfied that on the basis of depositions of Pawan Kumar @ Pawan Bansal (PW1), Anil Kumar @ Anil Bansal (PW2) and Mukesh Bansal (PW3), medical evidence in the shape of Dr. Sanjay Singla (PW7) and Dr.Karam Singh (PW10) and the depositions of the police officials connected with the investigation of the present case, this Court is satisfied that the judgment of conviction of the petitioners for the offences for which they have been convicted is well based and the learned counsel representing the petitioners has rightly opted not to challenge conviction of the petitioners.

However, there appears to be substance in the submissions of the learned counsel for the petitioners that as per prosecution version, a quarrel had taken place on account of payment of ₹1,50,000/- (Rupees one lac and fifty thousand only) to Mukesh Bansal, Anil Kumar @ Anil Bansal and Pawan Kumar @ Pawan Bansal by the petitioners; none of the petitioners is a previous convict; Petitioner Nos.1, 2 and 4, namely, Jai Singh @ Billa, Dharambir Singh @ Bora and Sunil Kumar had allegedly caused the simple injuries attracting the mischief of Section 323, IPC, only; the petitioners were on bail during the pendency of the

trial and appeal while petitioners Jai Singh @ Billa, Dharambir Singh @ Bora and Sunil Kumar have been extended the benefit of suspension of sentence by this Court; during the bail period, the petitioners did not misuse the concession of bail; petitioners are facing the agony of trial, appeal and the present revision petition for the last more than 5 years and 7 months and that the maximum sentence prescribed for the offences for which the petitioners have been held guilty is rigorous imprisonment for seven years; it has been further submitted that the petitioners are ready to adequately compensate the injured/aggrieved persons. It has also been pointed out that petitioner Nos.3 and 5, namely, Raj Kumar and Bajrang @ Bajransi have already suffered incarceration for almost 7 months. Petitioner Jai Singh has undergone R.I. For approximately 4 months, petitioner Dharamvir has suffered incarceration for 4½ months and petitioner Sunil Kumar has also suffered incarceration for approximately two months and twenty days and that the fine imposed by learned trial Court was deposited before the said Court at the time of releasing them on interim bail enabling them to file appeal before the Court of Session. It is also pointed out that during the last 5 years and 7 months, no other incident of

similar nature between the private parties had taken place.

In view of the above circumstances, this Court is of the considered view that petitioner Nos.1, 2 and 4, namely, Jai Singh @ Billa, Dharambir Singh @ Bora and Sunil Kumar, who had caused simple injuries to the aggrieved persons, have already suffered sufficient incarceration, therefore, their respective sentences are reduced to the period already undergone by them.

Petitioner Nos.3 and 5, namely, Raj Kumar and Bajrang @ Bajransi, had caused grievous injuries attracting the mischief of Section 325, IPC, and each one of them has suffered incarceration for approximately seven months, therefore, the sentence of each one of them is also reduced to the period already undergone by them.

The fine imposed by learned Trial Court and affirmed by learned Appellate Court is maintained. Compensation of ₹35,000/- (Rupees thirty-five thousand only) awarded in favour of three injured persons, namely, Mukesh Bansal, Anil Kumar @ Anil Bansal and Pawan Kumar @ Pawan Bansal, by learned Appellate Court is enhanced to ₹1,50,000/- (Rupees one lac and fifty thousand only). Anil Kumar @ Anil Bansal and Pawan Kumar

@ Pawan Bansal, who had received grievous injuries, shall share ₹1,20,000/- (Rupees one lac and twenty thousand only) in equal share, i.e. ₹60,000/- (Rupees sixty thousand only) each, while Mukesh Bansal, who had received simple injury shall get ₹30,000/- (Rupees thirty thousand only) as compensation. Mr.Navkiran Singh, learned counsel for the petitioners, submits that petitioner Nos.1, 2 and 4, namely, Jai Singh @ Billa, Dharambir Singh @ Bora and Sunil Kumar, who are on bail, are present in Court and they are ready to pay the total amount of compensation amounting to ₹1,50,000/- (Rupees one lac and fifty thousand only) on behalf of all the petitioners to the injured/aggrieved persons as per the share decided by this Court.

Ms.Aruna Sachdeva, learned counsel representing respondent No.2 and the injured/ aggrieved persons submits that all the three injured/ aggrieved persons are present in Court and they are ready to accept the amount of compensation of their share.

Mr.Navkiran Singh, learned counsel for the petitioners, has handed over ₹1,50,000/- (Rupees one lac and fifty thousand only) in cash to the injured/ aggrieved persons as per

their share, which has been accepted by all the three injured/ aggrieved persons, namely, Mukesh Bansal, Anil Kumar @ Anil Bansal and Pawan Kumar @ Pawan Bansal.

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

It has been pointed out that petitioner Nos.3 and 5, namely, Raj Kumar and Bajrang @ Bajransi are behind the bars, therefore, they be set at liberty at once, if not required to be in custody in any other case.

The order for their release be sent for compliance.

September 9, 2015
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(NARESH KUMAR SANGHI)
JUDGE