

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 1013 of 2006 (O&M)
Date of decision : 2.2.2016

...
Jagrup Singh and another
.....Petitioners

vs.

State of Punjab
.....Respondent

Coram: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. P.S. Sekhon, Advocate for the petitioners.

Mr. Yogesh Gupta, Assistant Advocate General, Punjab.

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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?*

P.B. Bajanthri, J.

Petitioners in the present revision petition are aggrieved by the judgment and order dated 4.5.2004 by which Chief Judicial Magistrate, Sangrur, has sentenced them as follows:-

	<i>Under Sections</i>	<i>Period of R.I.</i>	<i>Fine</i>	<i>In default of payment of fine</i>
Jagrup Singh	U/s 326 IPC	2 ½ years	Rs.1,000/-	3 months
	U/s 324 IPC	1 year	Rs. 500/-	2 months
	U/s 323 read with Section 34 IPC	6 months	--	--
Pargat Singh	U/s 323 IPC	6 months	--	--
	U/s 326 read with Section 34 IPC	2 ½ years	Rs. 1,000/-	3 months
	U/s 324 read with Section 34 IPC	1 year	Rs. 500/-	2 months

All sentences were ordered to run concurrently.

2) The petitioners aggrieved by the aforesaid judgment preferred a criminal appeal before the Additional Sessions Judge (Adhoc), Fast Track Court, Sangrur, whereby sentence awarded to the petitioners has been reduced from 2 ½ years to 1 ½ years, while upholding the remaining sentences under different Sections. Thus the petitioners have questioned the judgments dated 4.5.2004 and 9.5.2006 passed by Chief Judicial Magistrate, Sangrur and Additional Sessions Judge (Adhoc), Fast Track Court, Sangrur, respectively, in the present revision petition.

(3) The prosecution story is that on 10.12.2001, the accused-petitioners had a quarrel with the victims and attacked victims with *kirpan* and iron rod, whereby Ajmer Singh's right hand little finger and ring finger were injured. Accused Pargat Singh had given an iron rod blow on his head. Bant Singh was also injured and seat of injury was on head (scalp in the middle of parital region) The injured persons were removed to Civil Hospital. A case was registered under Sections 326/324/323 read with Section 34 IPC. After completion of investigation, challan against the accused was presented in the Court.

4) In support of prosecution case, Ajmer Singh, one of the injured was examined as PW-1, Bant Singh-complainant as PW-2, ASI Angrej Singh as PW-3, Dr.Bhagwan Singh Mittal, Senior Medical Officer, as PW-4, Dr. Ramesh Sharma as PW-5, HC Balwinder Singh as PW-6 and Tarsem Singh, Draftsman as PW-7 and medical reports.

5) The Chief Judicial Magistrate, Sangrur, has taken note of

the medical reports (X-ray reports, X-ray films as Exhibits P-14/1, P-14/2, P-15 and P-15/1) relating to injuries on Ajmer Singh and Bant Singh and other evidence adduced by witnesses PW-1 to PW-3, PW-6 and PW-7.

6) Statement of the accused persons under Section 313 Cr.P.C. was recorded. The accused-petitioners pleaded that they have been falsely implicated in the case with reference to the fact that they were opposing Sukhwinder Singh Bhola, Ex-Sarpanch in the Panchayat Elections etc. The prosecution case, in so far as motive to cause injuries by the accused on the complainant and his brother, was that the complainant and his brother were pressing for removing of electric pole through which electricity was supplied to the house of the accused. There was an enmity between the complainant and his brother and the accused persons.

7) Learned counsel for the petitioners submitted that during pendency of this revision petition, a compromise was entered into among parties, which was recorded by the Additional Sessions Judge Sangrur on 30.9.2015, pursuant to the order of this Court. It was further contended that the accused-petitioners Jagrup Singh and Pargat Singh were in jail for 4 months and 4 days and 2 months and 16 days, respectively (as per the custody certificate dated 19.8.2015, furnished by Hardeep Singh, PPS, Superintendent, District Jail, Sangrur). Therefore, counsel for the petitioners pleaded that the sentence be reduced since the alleged incident relates back to 2001.

8) Learned counsel for the petitioners relied on the

following judgments of the Apex Court, as well as, this Court wherein if the parties have entered into compromise, even though the offence is not compoundable, still sentence can be reduced:-

1) **Surendra Nath Mohanty and another vs. State of**

Orissa AIR 1999 Supreme Court 2181 ;

2) **Rajendra Harachand Bhandari and others vs.**

State of Maharashtra and another 2011 AIR (SC)

1821;

3) **Bakhtawar Singh and others vs. State of Haryana**

2015 (2) RCR (Criminal) 617;

4) **Kuldip vs. State of Punjab decided on 2.3.2015 vide**

CRA S 955 SB of 2007 and

5) **Nanda Gopalan vs. State of Kerala 2015 (2) RCR**

(Criminal) 861

9) Learned State counsel opposed the contentions of the petitioners' counsel and submitted that medical reports and statement of witnesses are sufficient to hold that the prosecution has proved the charge. It is further submitted that the Additional Sessions Judge has already modified the sentence from 2 ½ years to 1 ½ years, while taking lenient view. Having regard to the nature of offence and injury it was argued to not to interfere with the judgment of the Additional Sessions Judge, Sangrur.

10) Heard counsel for the parties.

11) Having regard to the prosecution case read with report of PW-4 and PW-5 (doctors), it is evident that the petitioners have

caused injuries on Ajmer Singh and Bant Singh. Therefore, the petitioners have been rightly convicted. However, with reference to the date of incident i.e. 10.12.2001, read with compromise entered among parties and legal heirs, which has been recorded by the Additional Sessions Judge, Sangrur, pursuant to the directions of this Court. Though the offence under Section 326 IPC was not compoundable, since the sentence ordered by the Chief Judicial Magistrate, Sangrur has been modified by Additional Sessions Judge, Sangrur in the Criminal Appeal from 2 ½ years to 1 ½ years. The petitioners' counsel pray for leave to compound the offence and it was submitted that the petitioner have feeling of remorse.

12) Taking into consideration overall view of facts and circumstances of the case, the petitioners shall pay Rs.50,000/- to the victims by way of compensation for the physical and mental injury suffered by them and a sum of Rs.20,000/- to be payable in favour of District Legal Service Authority, Sangrur. The amount of compensation shall be deposited in the Court of Chief Judicial Magistrate, Sangrur within three months. If the amount is not deposited within the stipulated period, the conviction and sentence recorded by the Additional Sessions Judge, Sangrur, against the petitioners under Sections 326, 323 and 324 IPC shall stand. However, if the amount is deposited within the stipulated time, the sentence of the petitioners under Sections 326, 323 and 324 IPC shall stand reduced to the period already undergone by them i.e. 4 months and 4 days undergone by Jagrup Singh and 2 months and 16 days

undergone by Pargat Singh. The Chief Judicial Magistrate, Sangrur is directed to release an amount of Rs.30,000/- in favour of Ajmer Singh or his legal heirs and an amount of Rs.20,000/- in favour of Bant Singh or his legal heirs, unconditionally. In so far as remaining amount of Rs.20,000/- is concerned, Chief Judicial Magistrate, Sangrur is directed to transfer the amount in favour of District Legal Service Authority, Sangrur, at the earliest.

(13) The appeal is disposed of accordingly.

2.2.2016
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(P.B. Bajanthri)
Judge