

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

Criminal Revision 1280 of 2008

Date of Decision : December 19, 2016

Sanjay @ Bhondu and others		Petitioners
	Versus	
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Ram Pal Verma, Advocate
for the petitioners.

Mr. Ashok S. Chaudhary, Addl. A.G., Haryana.

T.P.S.MANN, J. (Oral)

The petitioners, namely, Sanjay @ Bhondu, Sachin and Ramkesh, were tried for committing offences under Sections 323/325/452/506 read with Section 34 IPC. Vide judgment and order dated 13.7.2007, learned Sub-Divisional Judicial Magistrate, Ganaur, convicted them for the aforementioned offences and sentenced them as under:-

- (i) Rigorous imprisonment for six months and to pay a fine of Rs.200/- each under Section 323 read with Section 34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for one month;
- (ii) Rigorous imprisonment for one year and to pay a fine of Rs.500/- each under Section 325 read with Section 34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for two months;

- (iii) Rigorous imprisonment for one year and to pay a fine of Rs.500/- each under Section 452 read with Section 34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for two months; and
- (iv) Rigorous imprisonment for six months and to pay a fine of Rs.200/- each under Section 506 read with Section 34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for one month.

All the substantive sentences awarded were ordered to run concurrently. The period, if any, already undergone by them was ordered to be set off against their substantive sentences.

Aggrieved of their conviction and sentence, the petitioners preferred an appeal but remained unsuccessful as it came to be dismissed by learned Additional Sessions Judge, Sonapat, vide judgment dated 16.7.2008. Still not satisfied, the petitioners preferred the present revision, which was admitted on 9.9.2008 and their sentences of imprisonment were also suspended.

According to the prosecution, on 17.4.2005 at about 11.00 p.m., complainant Adesh went to the house of Rakesh son of Siri Bhagwan in connection with some domestic work. When he reached the house of Rakesh, he saw said Rakesh and one Ramkesh son of Ranbir involved in minor altercation. The complainant intervened in the matter. Thereafter, the complainant and Rakesh went

inside the house and started talking about personal matters. In the meantime, the appellants came to the house of Rakesh and got opened the door of his house forcibly. At that time, the petitioners were armed with thappi and dandas. They attacked the complainant by proclaiming them they would teach him a lesson by entering into a controversy with Rakesh. Ramkesh and Sanjay @ Bhondu, who were having a danda and thappi started giving injuries to complainant Adesh and Rakesh. Sachin and Ramkesh caught hold of the complainant whereas Sanjay @ Bhondu gave blows with a thappi on the head and hip of the complainant. Rakesh and his mother Kaushalya, who intervened to rescue the complainant were also given beatings by the petitioners, who inflicted several injuries on their person.

Learned counsel for the petitioners submits that he does not challenge the conviction of the petitioners, as recorded by the learned Courts below. He, however, submits that the petitioners are facing the agony of criminal prosecution for the last more than eleven years. Even according to the prosecution, they were not armed with any weapon, rather they were said to be carrying thappi and dandas. It is also submitted that they are poor persons and sole bread winners of their respective families. They are the first offenders. Sanjay @ Bhondu petitioner is presently paralytic and undergoing treatment from Ghaziabad. It is also submitted that out of the sentence of one year

imposed upon them, they have undergone a period of about two months. Prayer has, accordingly, been made for setting aside their remaining sentences of imprisonment.

Learned State counsel has vehemently opposed the prayer by submitting that the petitioners have already been dealt with leniently by the learned Courts below in the matter of sentence of imprisonment. It is also submitted that one of the injuries received by complainant Adesh had resulted into fracture of fifth metacarpal bone of his right hand.

As per the custody certificates already brought on record by the learned State counsel, each of the petitioners has undergone an actual sentence of one month and twenty six days. They are not shown to be either involved or convicted in any other case.

Taking into consideration the totality of the circumstances, this Court is of the view that no useful purpose will be served by sending the petitioners behind the bars, once again, for undergoing their remaining substantive sentence of imprisonment. Ends of justice shall be suitably met, if the same is reduced to the one already undergone by them. At the same time, the fine imposed upon them can be enhanced so as to compensate the injured.

Resultantly, the conviction of the petitioners, as recorded by the Courts below, is upheld. Their substantive sentence of

imprisonment shall stand reduced to the one already undergone by them. The fine imposed upon them for the offences under Section 323 read with Section 34 IPC, Section 452 read with Section 34 IPC and Section 506 read with Section 34 IPC alongwith their default clauses is maintained. However, the fine of Rs.500/- imposed upon each of the petitioners for the offence under Section 325 read with Section 34 IPC is enhanced to Rs.5,000/-. The enhanced amount of fine, i.e. Rs.4,500/-, be deposited by each one of them with the trial Court within a period of three months from today, failing which, they shall undergo rigorous imprisonment for three months. The entire enhanced amount of fine, when deposited by the petitioners, be disbursed in favour of complainant Adesh and injured Rakesh, as compensation in equal shares.

The revision is, accordingly, disposed of.

December 19, 2016
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No