

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

Crl. Revision 1948 of 2008
Date of Decision : June 02, 2016

Lakhmir Singh @ Lakhi and others

.....Petitioners

VERSUS

State of Haryana through Advocate General

.....Respondent

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

Present : Mr. Rakesh Gupta, Advocate
for the petitioners.

Mr. Dhruv Dayal, Deputy A.G., Haryana.

Mr. P.L.Singla, Advocate
for the complainant.

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

The petitioners were tried for committing the offences punishable under Sections 148, 323 and 324 read with Section 149 IPC on the allegations that while being members of unlawful assembly, common object of which was to cause injuries, they caused injuries to complainant Dalel Singh and his wife Jaswant Kaur on 10.10.2000. Vide judgment and order dated 10/11.9.2004, learned Judicial Magistrate 1st Class, Panchkula convicted them under Section 148 IPC and sentenced them to undergo rigorous imprisonment for six months each. They were further convicted under Section 324 read with Section 149 IPC and sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 1,000/- each and in default of

payment of fine, to further undergo simple imprisonment for two months. They were also convicted under Section 323 read with Section 149 IPC and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- each and in default of payment of fine, to further undergo simple imprisonment for one month. All the sentences were ordered to run concurrently. The fine imposed was deposited by them there and then.

Aggrieved of their conviction and sentences, the petitioners preferred an appeal. Vide judgment dated 11.9.2008, learned Additional Sessions Judge, Panchkula upheld the conviction of the petitioners. However, their sentences of imprisonment under Section 324 read with Section 149 IPC was reduced from two years to rigorous imprisonment for one year each. The remaining sentences of imprisonment for the offences under Sections 148 and 323 read with Section 149 IPC were maintained. The sentences of fine alongwith their default clauses were also maintained. With the modification in the question of sentence, the appeal was disposed of.

Still not satisfied, the petitioners preferred the present revision which came to be admitted on 22.9.2008. Subsequently on 4.10.2008 their sentences of imprisonment were suspended.

Before proceeding further, it may be noticed that during the pendency of the revision, Labh Singh petitioner was

said to have died. Accordingly, learned State counsel was directed to obtain necessary verification of the said fact. Pursuant to the same, short reply by way of affidavit of Sh.Rajesh Kumar, HPS, Assistant Commissioner of Police, Kalka, Panchkula has been filed wherein it stands mentioned that the factum of death of Labh Singh stands duly verified. Alongwith the reply, photocopy of the death certificate has been appended.

With the death of Labh Singh petitioner, the present revision qua him stands abated.

Learned counsel for the surviving petitioners submits that they are facing the agony of criminal prosecution for the last about sixteen years. All the injuries attributed to them and received by the complainant and his wife Jaswant Kaur were found to be simple in nature. They claim to be poor persons and sole bread winners of their families. They are also not previous convicts. Further, each of the surviving petitioners has undergone a period of about one month out of the sentence of one year imposed upon them. It is also submitted that in the occurrence in question, the accused side had also received injuries. Prayer has, accordingly, been made for setting aside their remaining sentences of imprisonment.

Learned State counsel as well as learned counsel for the complainant have vehemently opposed the prayer by submitting that none of the surviving petitioners deserves any

concession in the matter of sentence of imprisonment as they had caused injuries to the complainant and also did not spare his wife Jaswant Kaur by causing injuries to her.

Custody certificates in respect of the surviving petitioners have already been brought on record wherein it is mentioned that each one of them has undergone an actual sentence of twenty six days.

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 sentences of imprisonment. Ends of justice would be suitably met, if their remaining sentences of imprisonment on all the counts are set aside.

Resultantly, the revision qua Labh Singh petitioner is disposed of as having abated. The conviction of the surviving petitioners i.e. Lakhmir Singh @ Lakhi, Gurmail, Gurmukh Singh, Gurcharan Singh, Palwinder Singh @ Pinder and Jasbir Singh under Sections 148, 323 read with Section 149 and 324 read with Section 149 IPC is upheld. Their remaining sentences of imprisonment are set-aside. The sentences of fine alongwith their default clauses are maintained. The revision qua them is, accordingly, disposed of.

June 02, 2016
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(T.P.S. MANN)
JUDGE