

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

CRR No.2826 of 2009.

Decided on:-December 07, 2016.

Veerbhan and others

.....Petitioners.

Versus

State of Haryana.

.....Respondent.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. Sanjay Vashisth, Advocate
for the petitioners.

Mr. Vikas Malik, DAG, Haryana
for the respondent-State.

HARI PAL VERMA, J.

Petitioners, namely, Veerbhan, Tejpai and Krishan sons of Rawat, residents of village Hetampura, Tehsil and District Bhiwani have filed the present revision petition against the judgment dated 15.10.2009 passed by learned Additional Sessions Judge, Bhiwani whereby their appeal against the judgment of conviction and order of sentence dated 18.12.2007 passed by learned Additional Chief Judicial Magistrate, Bhiwani, was dismissed.

Vide judgment dated 18.12.2007, learned Magistrate held all the petitioners-accused guilty for committing offence under Sections 323,

324 and 325 read with Section 34 IPC. Vide separate order dated 18.12.2007, learned Magistrate had sentenced them as under:

<u>Offence</u>	<u>Sentence</u>
323 read with Section 34 IPC	Rigorous imprisonment for a period of six months each.
324 read with Section 34 IPC	Rigorous imprisonment for a period of one year each.
325 read with Section 34 IPC	Rigorous imprisonment for a period of two years with fine of Rs.500/- each and in default of payment of fine, to further undergo imprisonment for a period of two months each.

It was, however, ordered that all the substantive sentences awarded to the petitioners shall run concurrently.

The prosecution case, in brief, is that on 31.8.2000, complainant Ishwar Singh along with his father Prithvi Singh reached the Police Post and got recorded his statement to the effect that he used to run a grocery shop in village Hetampura and has constructed his house outside the village in the fields. On that day, when he was present in his shop, petitioner-accused Veerbhan along with his father Rawat came there and demanded Rs.20/- on credit. But the complainant denied him to give money. After closing his shop, the complainant had gone to his house in the fields. After some time, when the complainant along with his father Prithvi Singh was present in front of his house, petitioners-accused Veerbhan and Tejpal both sons of Rawat came there having Lathis in their hands. Petitioner Veerbhan stated to teach the complainant a lesson for not giving Rs.20/- and

by saying so, he inflicted Lathi blow on his head. Accused Tejpal also gave a Lathi blow on the fingers of his left hand. Then accused Krishan son of Rawat also came there having Lathi in his hand and caused Lathi blows on the head and right side of Prithvi Singh. Rawat father of petitioners-accused also arrived on the spot and gave slaps and fist blows to the complainant and his father Prithvi Singh. On hearing noise, Naresh son of Jaipan came there and on seeing him, all the four accused ran away from the spot. The complainant and his father were admitted in Civil Hospital, Bhiwani for treatment.

On the basis of aforesaid statement made by the complainant and after receiving report from the doctor, FIR No.319 dated 1.9.2000 under Sections 323, 324 and 325 read with Section 34 IPC was registered against petitioners-accused Veerbhan, Tejpal and Krishan along with their father Rawat at Police Station, Sadar Bhiwani. On completion of investigation, final report under Section 173 Cr.PC was prepared and present in the Court.

As envisaged under Section 207 Cr.PC, the copies of report under Section 173 Cr.PC were supplied to the accused free of costs. On 24.08.2001, accused were charge-sheeted under Sections 323, 324 and 325 read with Section 34 IPC to which they pleaded not guilty and claimed trial.

In order to prove its case, as many as 8 witnesses were examined by the prosecution. Thereafter, statements of accused under Section 313 Cr.PC were recorded wherein they denied all the allegations levelled against them and pleaded their innocence. Though the accused opted to lead evidence in their defence, but no evidence was led by them.

During trial, accused Rawat died and proceedings against him were dropped vide order dated 21.03.2006 passed by the trial Court.

The trial Court vide judgment and order dated 18.12.2007 convicted and sentenced the petitioners-accused in the manner as referred above.

Feeling aggrieved, the petitioners-accused preferred an appeal against the aforesaid judgment of conviction and order of sentence before the Court of Sessions. However, the same was dismissed by learned Additional Sessions Judge, Bhiwani vide judgment dated 15.10.2009.

It is in the aforesaid circumstances, the present revision petition has been filed by the petitioners.

At the outset, learned counsel for the petitioners has not challenged the conviction of petitioners and confined his arguments qua the quantum of sentence only. He has submitted that the petitioners are facing the agony of criminal proceedings since the year 2000. They are the only bread winners of their respective families. As against the awarded sentence of two years, they have remained in custody for a period of 23 days i.e. from 15.10.2009 to 06.11.2009. Learned counsel for the petitioners has, thus, prayed that the sentence awarded to the petitioners may be reduced to the period already undergone by them.

On the other hand, learned State counsel has argued that learned trial Court has sentenced the petitioners to undergo rigorous imprisonment for two years under Section 325 IPC and has already taken a lenient view regarding the sentence of petitioners. Thus, no interference is warranted in the quantum of sentence.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the petitioner guilty for commission of offence under Sections 323, 324 and 325 read with Section 34 IPC. The appellate Court has also rightly dismissed the appeal. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned counsel for the petitioners has not assailed the judgments of conviction and restricted his arguments qua the quantum of sentence only. The conviction of the petitioners is, therefore, affirmed.

On the issue of quantum of sentence, this Court in the case of ***Shiv Kumar v. State of Haryana 2014(3) RCR (Criminal) 577*** 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 this 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 v. State of Punjab 1979 CLJ (Criminal) 113*** where the accused was first time offender and had undergone the sentence of 3½ months, his sentence was reduced to the period already undergone by him. Similarly, in the case of ***Kuldeep Singh***

Versus State of Punjab CRR No.2774 of 2016 decided on 24.08.2016 this Court had reduced the sentence of accused therein under Section 325 IPC to the period already undergone by him subject to payment of compensation of Rs.20,000/- to the complainant-injured.

Therefore, considering the fact that the petitioners have been suffering the criminal proceedings since the year 2000 coupled with the fact that against the awarded sentence of two years, they remained in custody for 23 days, this Court feels that the ends of justice would be met if the sentence awarded to them is reduced to the period already undergone by them.

Accordingly, the present revision petition is dismissed with modification in the order of sentence to the effect that the sentence awarded to the petitioners is reduced to the period already undergone by them subject to payment of Rs.10,000/- each (total Rs.30,000/-) as compensation within a period of one month from today. The petitioners shall deposit the amount of compensation with the trial Court.

However, it is made clear that the sentence qua fine imposed upon the petitioners shall remain intact. Perusal of the order of sentence dated 18.12.2007 passed by the trial Court shows that the fine has already been paid by the petitioners.

On depositing of amount of compensation of Rs.30,000/- by the petitioners, the trial Court shall disburse the same to the injured-complainant Ishwar Singh as another injured i.e. Prithvi Singh father of complainant Ishwar Singh is stated to be died during pendency of the case.

It is made clear that in case the petitioners fail to deposit the amount of compensation with the trial Court within a period of one month

from today, the present revision petition would be liable to be dismissed in toto and the petitioners shall have to undergo imprisonment as awarded by the trial Court and affirmed by the appellate Court.

December 07, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No