

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

Crl. Revision 1213 of 2010
Date of Decision : May 24, 2016

Surta and others

.....Petitioners

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Vikram Singh, Advocate
for the petitioners.

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

Mr. Hardeep Singh Dhillon, Advocate
for the complainant.

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

The petitioners were tried for committing the offences punishable under Sections 326/325/324/323/149 and 148 IPC. Vide judgment and order dated 26.3.2009/6.4.2009, learned Sub Divisional Judicial Magistrate, Safidon convicted and sentenced them as follows:-

- i) Rigorous imprisonment for a period of one year and to pay a fine of Rs. 500/- each under Section 148 IPC and in default of payment of fine, to further undergo simple imprisonment for a period of two weeks;
- ii) Rigorous imprisonment for three months and to pay a fine of Rs. 300/- each under Sections 323/149 IPC and in default of payment of fine, to further undergo simple imprisonment for a period of one week;
- iii) Rigorous imprisonment for two years and to pay a fine of Rs. 700/- each under Sections 324/149 IPC and in default of payment of fine, to further undergo simple imprisonment for one month;

- iv) Rigorous imprisonment for a period of two years and to pay a fine of Rs. 700/- each under Sections 325/149 IPC and in default of payment of fine, to undergo simple imprisonment for one month; and
- v) Rigorous imprisonment for a period of three years and to pay a fine of Rs. 1,000/- each under Sections 326/149 IPC and in default of payment of fine, to further undergo simple imprisonment for two months.

All the substantive sentences were ordered to run concurrently.

The entire amount of fine i.e. Rs. 16,000/- was deposited by the petitioners before the trial Court.

Aggrieved of their conviction and sentences, the petitioners preferred an appeal which was, however, dismissed by learned Additional Sessions Judge, Jind vide judgment dated 20.4.2010. Still not satisfied, they filed the present revision in which they are currently on bail pursuant to the order dated 11.5.2010.

The case of the prosecution has been noticed by the learned lower appellate Court in para 2 of its judgment, which is reproduced here-in-below:-

“That the present FIR has been registered on the statement of Pinkal son of Krishan Lal, the complainant to the effect that on 25.6.2004 at about 11 AM, he along with his father Krishan Lal was working in the fields and his elder brother was ploughing the field with tractor. In the meantime, Surta son of Roshan Lal armed with gandasi, Binder son of Roshan Lal armed with gandasi, Bhagwan Dass son of Roshan Lal armed with Jaili, Jagjeevan @ Kala son of Jogi Ram and Ram Mehar son of Deepa armed with lathis came there and Surta dealt a blow of gandasi on him

which hit on back side of his head, thereafter Bhagwan Dass dealt blow of jaili on him which hit at the wrist of his right hand. When he raised noise 'Mar Diya Mar Diya' then on hearing noise, his brother Darshan and father Krishan Lal tried to rescue him from the clutches of accused, however, Surta dealt a blow of gandasi to Darshan also which hit him on his head; thereafter Binder attacked his brother Darshan with gandasi which hit him at his right foot and thereafter, Jagjeevan and Ram Mehar also beat them with lathies. In the meantime, Paramjeet son of Pishori Lal and Rajiv son of Subhash reached at the spot and rescued them from the clutches of the accused and thereafter, accused fled away with the weapons of offences. After that, their family members brought them to Civil Hospital, Safidon after arranging the vehicle. On this statement the FIR was registered. The investigations were taken up and accused were arrested. After completion of investigations, challan under Section 173 Cr.P.C., was submitted in Court against the accused for trial.”

It may not be out of place to mention here that after admission of the revision, when the matter was taken up for consideration on bail, it was submitted on behalf of the petitioners that the parties had already entered into a compromise. Even today, the three injured persons, namely, Pinkal, Darshan and their father Krishan Lal have put in appearance before this Court and are also represented by their counsel. All of them have made joint statement recorded separately to the effect that the dispute between the parties, who are residents of the same village, stands amicably settled. Further, whatever benefit enures to the petitioners on account of the compromise be extended to them.

One of the offences i.e. Section 326 IPC cannot be lawfully

compounded. However, the factum of compromise can be taken as a mitigating circumstance for considering the sentence of imprisonment to be imposed upon the petitioners. As per the custody certificates produced by the learned State counsel, the petitioners other than Binder @ Bijender have already undergone period ranging from one month and three days to one month and five days whereas Binder @ Bijender has undergone actual sentence of two months.

Taking into consideration the totality of the circumstances especially the factum of compromise arrived at between the parties, 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 sentences of imprisonment on all the counts are reduced to the one already undergone by them.

Resultantly, the conviction of the petitioners for the offences under Sections 326/325/324/323/149 and 148 IPC is upheld. However, their substantive sentences of imprisonment on all the counts shall stand reduced to the one already undergone by them. The sentences of fine alongwith their default clauses are maintained.

The revision is, accordingly, disposed of.

May 24, 2016
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(T.P.S. MANN)
JUDGE