

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

Crl. Revision 2666 of 2011
Date of Decision : May 12, 2016

Randhir Singh and another

.....Petitioners

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Jai Bhagwan Sharma, Advocate

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

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

The petitioners alongwith their brother Bijender Singh @ Binda, father Diwan Singh and mother Phulpati @ Phuli were booked and tried for committing the offences under Sections 323, 325 and 506 read with Section 34 IPC. During the trial of the case, Diwan Singh expired and, accordingly, proceedings against him were dropped. Vide judgment and order dated 6/7.5.2010, learned Additional Chief Judicial Magistrate, Jind acquitted Phulpati @ Phuli of the charges against her. The petitioners and their co-accused Bijender Singh @ Binda were convicted for the aforementioned offences. Keeping in view the fact that Bijender Singh @ Binda was not a previous convict and was of the age of 16½ years, the trial Court gave him the benefit of probation. However, the petitioners were sentenced as follows:-

- i) Rigorous imprisonment for a period of three months and to pay a fine of Rs. 500/- each under Sections 323/34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for fifteen days each;
- ii) Rigorous imprisonment for a period of six months and to pay a fine of Rs. 1,000/- each under Sections 325/34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month each; and
- iii) Rigorous imprisonment for a period of three months and to pay a fine of Rs. 500/- each under Sections 506/34 IPC and in default of payment of fine, to further undergo rigorous imprisonment for a period of fifteen days each.

The fine imposed upon them stood duly deposited. Out of the amount of fine realized, a sum of Rs. 3,000/- was ordered to be paid to the complainant, as compensation whereas the remaining amount of Rs. 1,000/- was appropriated towards the expenses of proceedings.

Aggrieved of their conviction and sentences, the petitioners preferred an appeal. Vide judgment dated 21.10.2011, learned Additional Sessions Judge, Jind found no fault with their conviction and sentences and, accordingly, dismissed the same. Hence, the present revision in which they are on bail.

Having heard learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that on 28.1.2006 at about 7.30 a.m., the petitioners alongwith their co-accused had caused injuries to Dayawanti, Harish and complainant Balwan Singh. Some of those injuries were declared to be grievous in nature. The prosecution case stands proved from the testimonies of PW1 complainant Balwan Singh and PW2 Smt. Dayawanti. Both of them stood the test of cross-examination successfully. No material could be brought on record from which it could be inferred that they had been falsely implicated in the case. Merely because PW4 Inder Singh and PW5 Ramphal, who had also witnessed the occurrence, did not support the case of the prosecution, is not sufficient to reject the prosecution case in its entirety. The injuries received by the three injured were duly reflected in their respective medico-legal reports, which were tendered in evidence. Under these circumstances, no case is made out for any interference in the conviction of the petitioners.

Learned counsel for the petitioners has submitted that both the petitioners are facing the agony of criminal prosecution for the last more than ten years. They are poor persons and required to look after their children. They are the only bread winner of their respective families. They are also not previous

convicts. They have already undergone an actual sentence of more than two months. Further, as the petitioners are on bail for the last more than four years, their remaining sentences of imprisonment be set-aside.

Learned State counsel has opposed the prayer by submitting that the petitioners had caused simple as well as grievous injuries to the complainant party, therefore, the sentences of imprisonment awarded to them are commensurate with the crime committed. Learned State counsel has, however, produced the custody certificates, as per which both the petitioners have undergone sentence of imprisonment for more than two months.

Having heard learned counsel for the parties, this Court is of the considered view that no useful purpose shall be served by sending the petitioners behind the bars for undergoing their remaining sentences of imprisonment. Ends of justice shall be best met if the sentences of imprisonment imposed upon the petitioners on all the three counts are reduced to the one already undergone by them. At the same time, they can be directed to pay additional fine of Rs. 5,000/- each for the offences under Sections 325/34 IPC so that the same may be disbursed to complainant Balwan Singh, as compensation.

Resultantly, the conviction of the petitioners for the various offences, is upheld. Their substantive sentences of

imprisonment on all the counts shall stand reduced to the one already undergone by them. The sentences of fine for the offences under Sections 323 and 506 read with Section 34 IPC alongwith their default clauses are maintained. However, the sentence of fine of Rs. 1,000/- imposed upon them for the offences under Section 325 read with Section 34 IPC is enhanced to Rs. 6,000/- each. The enhanced amount of fine be deposited by the petitioners with the trial Court within three months from today failing which they shall undergo rigorous imprisonment for a period of two months each. The enhanced amount of fine, if deposited by the petitioners, be disbursed to complainant-Balwan Singh, as compensation.

The revision is, accordingly, disposed of.

May 12, 2016
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(T.P.S. MANN)
JUDGE