

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

Crl. Revision 2733 of 2012
Date of Decision : May 31, 2016

Balwan and others

.....Petitioners

VERSUS

State of Haryana

.....Respondent

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

Present : Mr. Sandeep Panwar, Advocate
for the petitioners.

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

Mr. R.S.Thakur, Advocate
for the complainant.

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

The petitioners, namely, Balwan, Ram Chander, Krishan, Satish, Subhash and Nasib, were tried for committing the offences punishable under Sections 148, 323, 324 and 506 read with Section 149 IPC. Vide judgment and order dated 24/28.9.2010, learned Judicial Magistrate 1st Class, Kaithal acquitted them of the charge under Section 506 IPC. They were, however, convicted under Sections 148, 323/149 and 324/149 IPC and sentenced as below:-

- i) simple imprisonment for six months each under Section 148 IPC;
- ii) simple imprisonment for one year each under Sections 323/149 IPC; and
- iii) simple imprisonment for two years each under Sections 324/149 IPC.

All the sentences were ordered to run concurrently.

Aggrieved of their conviction and sentences, the petitioners preferred an appeal. Vide judgment dated 30.8.2012, learned Additional Sessions Judge, Kaithal while holding that the appeal was devoid of any merit, dismissed the same. Still not satisfied, they filed the present revision in which they are currently on bail pursuant to order passed by this Court on 17.10.2012.

At the outset, it may be mentioned that during the pendency of the revision, Ram Chander petitioner has expired. Learned State counsel has produced the report by way of affidavit of Shri Tekan Raj, DSP (HQ), Kaithal wherein it is mentioned that the factum of death of Ram Chander petitioner stands duly verified. Accordingly, the revision qua the said petitioner stands abated.

The case of the prosecution, in nutshell, is that on 13.2.2004 at about 7.30 p.m., complainant Arjun Singh and his nephew Shishan were sitting in the tubewell *kotha* in their fields. All the six petitioners came there on motor cycles. Balwan started abusing the complainant and his nephew and raised a *lalkara* that they be taught a lesson for quarrelling with them. All the petitioners brought the complainant and his nephew out of the *kotha*. Balwan gave gandasi blow on the head of the complainant whereas Krishan gave a sword blow to Shishan. Subhash gave a knife blow to the complainant. All the other accused, who were

armed with *lathis* inflicted injuries to the complainant and his nephew Shishan. When the complainant raised hue and cry, his brother Ram Karan and nephew Salinder rushed to the spot. On seeing them, the petitioners decamped from the spot while carrying their respective weapons.

Having heard learned counsel for the parties and on going through the judgments passed by the Courts below, this Court finds that all the petitioners while armed with different weapons had caused injuries to complainant Arjun Singh and his nephew Shishan on 13.2.2004 at 7.30 p.m. While appearing before the Court as PWs 5 and 6, complainant Arjun Singh and injured Shishan testified about the manner in which the occurrence had taken place. Their testimonies are duly corroborated by Dr. Hazari Lal, who was examined by the prosecution as PW4. The investigation part of the case has been brought on record by PW1 ASI Pale Ram and PW3 HC Mahender Singh. Despite subjecting the prosecution witnesses to lengthy cross-examination, the defence could not bring on record any material from which it could be established that the petitioners had been falsely implicated in the case. Under these circumstances, no case is made out for any interference in the conviction of the petitioners.

As regards the quantum of sentence of imprisonment, it may be noticed that the surviving petitioners are facing the

agony of criminal prosecution for the last more than twelve years. All the injuries attributed to them and received by complainant Arjun Singh and injured Shishan were found to be simple in nature. They are stated to be poor persons and sole bread winners of their respective families. At the same time, it may be noticed that Balwan petitioner earlier stood convicted and sentenced in another criminal case. However, the fact remains that none of the injuries attributed to the surviving petitioners was found to be grievous in nature. As per the custody certificate produced by the learned State counsel, these petitioners have already undergone an actual sentence of one month and twenty one 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 surviving petitioners behind the bars, once again, for undergoing their remaining sentences of imprisonment imposed upon them. Ends of justice would be suitably met, if their remaining sentences of imprisonment on all the counts are set-aside. At the same time, they can be sentenced to pay a fine of Rs. 10,000/- each so that the same may be paid to complainant Arjun Singh and his nephew Shishan, as compensation.

Resultantly, the revision qua Ram Chander petitioner is disposed of as having abated on account of his death. The

conviction of the remaining petitioners, namely, Balwan, Krishan, Satish, Subhash and Nasib, for the offences under Sections 148, 323/149 and 324/149 IPC is upheld. Their remaining sentences of imprisonment on all the counts are set-aside. At the same time, each of these petitioners shall pay an amount of Rs. 10,000/- as fine for the offences under Sections 324/149 IPC which shall be deposited by them with the trial Court within three months from today, failing which they shall be required to undergo simple imprisonment for six months. In case, the fine amount is deposited by them, the same shall be disbursed in favour of complainant Arjun Singh and his nephew Shishan in the ratio of 60:40 i.e. Rs. 30,000/- shall be paid to complainant Arjun Singh and Rs. 20,000/- to injured Shishan as compensation. The revision qua them is, accordingly, disposed of.

May 31, 2016
ajay-1

(T.P.S. MANN)
JUDGE