

CRR-2844 of 2013 (O&M)
CRR-3070 of 2013 (O&M)
CRR-3138 of 2013 (O&M)

-1-

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

CRR-2844 of 2013 (O&M)
Date of decision: 24.10.2016

Buta Singh

...Petitioner

Versus

State of Haryana

...Respondent

CRR-3070 of 2013 (O&M)

Sahab Singh

...Petitioner

Versus

State of Haryana

...Respondent

CRR-3138 of 2013 (O&M)

Shyam Lal

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. P.S. Hundal, Sr. Advocate with
Mr. Dinesh Trehan, Advocate
for the petitioner(s).

Mr. Madan Pal, Advocate
for the petitioner (in CRR No.3070 of 2013)

Mr. Bhupender Singh, Advocate for
Mr. Rahul Vats, Advocate
for the petitioner (in CRR No.3138 of 2013)

Mr. Neeraj Poswal, AAG, Haryana

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

Jitendra Chauhan, J.

By this common judgment, this Court shall dispose of the aforesaid three petitions as common questions of facts and law are involved in all the three revision petitions.

By filing the present criminal revisions, the petitioners have assailed the judgment dated 26.08.2013, vide which, the Addl. Sessions Judge, Fatehabad, upheld the judgment of conviction dated 04.12.2010 and order of sentence dated 07.12.2010 passed by the Judicial Magistrate 1st Class, Fatehabad, whereby the petitioners have been convicted and sentenced as under:-

Name of Convict	Under Section(s)	Sentence(s)
Buta Singh	148 IPC	RI for 6 months
	323 IPC	Fine of ₹500/- and in default thereof SI for 15 days
	325 IPC	RI for 2 years and fine ₹1000/-, in default thereof SI for 1 month
	326 IPC	RI for 2 years and fine ₹1500/-, in default thereof SI for 1 ½ month
	452 IPC	RI for 1 year and fine ₹1000/-, in default thereof SI for 1 month
Sahab Singh	148 IPC	6 months RI
	323 IPC	Fine of ₹500/- and in default thereof SI for 15 days
	325 IPC	RI for 1 year and fine ₹1000/-, in default thereof SI for 1 month

CRR-2844 of 2013 (O&M)
CRR-3070 of 2013 (O&M)
CRR-3138 of 2013 (O&M)

Name of Convict	Under Section(s)	Sentence(s)
	326 IPC	RI for 2 years and fine ₹1500/-, in default thereof SI for 1 ½ month
	452 IPC	RI for 1 year and fine ₹1000/-, in default thereof SI for 1 month
Shyam Lal	148 IPC	6 months RI
	323 IPC	Fine of ₹500/- and in default thereof SI for 15 days
	325 IPC	RI for 1 year and fine ₹1000/-, in default thereof SI for 1 month
	326 IPC	RI for 2 years and fine ₹1500/-, in default thereof SI for 1 ½ month
	452 IPC	RI for 1 year and fine ₹1000/-, in default thereof SI for 1 month

Brief facts of the cases are as under:-

“On 12.05.2005, Smt. Kamlesh, the daughter-in-law of Sant Lal convened a Panchayat regarding their family dispute qua illicit relations where Buta Singh and Shyam Lal were also present. The complainant Tajender Singh was also called in the Panchayat but Buta Singh and Shyam started misbehaving with him and also gave a fist blow on his nose. Pohla Ram and Jai Ram accompanied him to his house. After some time, when his brothers came to know about the misheba viour of Buta Singh etc., they came to his house and talked with him. Meanwhile Buta Singh armed with sword, Trilochan Singh armed with kappa, Komal Singh armed with sword, Shyam Lal and Sahab Singh armed with sticks entered his house. Komal Singh, Buta Singh and Trilochan Singh etc. started inflicting injuries on their person. Shyam Lal and Sahab Singh gave stick blows on them. Buta Singh gave a sword blow near the elbow of Tarwinder Panch, Sahab Singh and Shyam Lal gave sticks blows on the person of Sukhchain, Gurmeet Singh cried for rescue, on listening which Paramjit and Sarpanch of the village came on the spot and rescued the injured from the clutches of assailants. A prayer to set the criminal law in motion was made. Statement of Tajender Singh Ex.PW5/B was recorded and report was sent to Police Station after making endorsements Ex.PW5/C, on the basis of this information rapat rojnamcha Ex.PW5/D was lodged. FIR was already

CRR-2844 of 2013 (O&M)
CRR-3070 of 2013 (O&M)
CRR-3138 of 2013 (O&M)

-4-

lodged on the basis of cross-version. SI Ishwar Singh visited the spot and prepared rough site plan Ex.PW5/E. Accused were arrested and weapon of offence i.e. two sword produced by accused Komal Singh and Buta Singh was taken in police possession as per seizure memo Ex.PW5/F and Ex.PW5/G. After usual investigation, the police found sufficient grounds to proceed against the accused and as such, final report under Section 173 Cr.P.C. was submitted in the Court of learned Area Magistrate to face trial.”

The accused were charge sheeted under Sections 148, 323, 325, 326 and 452 of the IPC read with Section 149 IPC to which they pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 Dr. Suraj Kamboj; PW-2 Dr. Rajesh Chaudhary; PW-3 SI Ishwar Singh; PW-4 HC Shadi Ram; PW-5 Tajender Singh, complainant; PW-6 Pohla Ram; PW7 Bhupinder Singh and PW8 Sukhchain Singh.

The statements of the accused under Section 313 Cr.P.C., were recorded. They pleaded innocence and alleged false implication. In their defence, they examined DW1 Kamlesh.

After hearing the Public Prosecutor, the Counsel for the accused and after going through the evidence on record, the trial Court convicted and sentenced the accused/petitioners as narrated above.

The appeal filed by the petitioners were also dismissed vide impugned judgment dated 26.08.2013. Feeling aggrieved against the judgments of both the Courts below, the instant revisions were filed by the accused/petitioners.

CRR-2844 of 2013 (O&M)
CRR-3070 of 2013 (O&M)
CRR-3138 of 2013 (O&M)

-5-

On 04.08.2016, it was informed by learned counsel for the petitioners that petitioner No.2-Trilochan Singh has since died and this fact has not been controverted by learned State counsel. In this backdrop, proceedings against petitioner No.2 stand abated.

Custody certificate of petitioner-Sahab Singh filed in Court is taken on record.

The learned counsel for the petitioners do not press the revision petitions on merits and have submitted that the petitioners are the sole bread winners of their respective families. It is further submitted that the petitioners have suffered the agony of a protracted trial since the year 2005. They have never misused the concession of bail during the trial. Petitioner No.3 has already undergone actual sentence of more than 02 months out of substantive sentence of two years. Further, petitioner Nos.1 and 2 have undergone actual sentence of more than 1 month out of substantive sentence of two years. Thus, the learned counsel pray for a lenient view on the quantum of sentence imposed by the trial Court.

On the other hand, the learned State counsel opposes the prayer of the petitioners/accused and supported the judgment of conviction and order of sentence passed by the trial Court and affirmed by the Addl. Sessions Judge, Fatehabad.

I have heard the arguments of the learned counsel for the parties and have carefully gone through the record of the cases.

CRR-2844 of 2013 (O&M)
CRR-3070 of 2013 (O&M)
CRR-3138 of 2013 (O&M)

-6-

The prosecution case is fully proved from the statements of the prosecution witnesses. There is no flaw in the unassailed judgment of conviction. There is no merit in the present revision petitions which are dismissed on merits.

However, the petitioners have suffered agony of protracted trial for the past 11 years. It is one of the mitigating circumstances which enables them to be treated leniently. Petitioners have already undergone sentence of more than 01 month out of substantive sentence of two years and they have never misused the concession of bail. No previous conviction has either been alleged or proved against any of the accused. In view of the above, the prayer made on behalf of the petitioners is accepted. The sentence awarded to the petitioners is ordered to be reduced to the period already undergone subject to payment of ₹25,000/- each towards compensation to be paid by the each petitioners namely Buta Singh, Shyam Lal and Sahab Singh, within three months from the date of receipt of certified copy of the order. It is made clear that if the amount is not paid within the stipulated period, the present revision petitions shall be deemed to be dismissed without any notice and they shall have to undergo the remaining part of sentence. They be released forthwith, if not required in any other case.

Ordered accordingly.

24.10.2016
ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No