

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

CRR No.1477 of 2014

Date of Decision: September 06, 2016

Karamjeet Kaur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. PKS Phoolka, Advocate
for the petitioner.

Mr. Gurvir Sidhu, AAG Punjab.

Mr. Naveen Sharma, Advocate
for respondents No.2 to 5.

FATEH DEEP SINGH, J.

The revisionist/Karamjit Kaur has sought to impugn and assail judgment dated 10.12.2013 of learned Additional Sessions Judge, Bathinda. In an appeal of four appellants Rajwinder Singh @ Raja, Rajmohinder Singh @ Mohri, Gurnam Singh @ Happy and Gogan Singh, who were earlier found guilty of offences under Sections 452,323,324,148,149 IPC by the Court of learned Judicial Magistrate 1st Class, Bathinda through judgment dated 03.02.2012. It is out of 08 accused put up before the trial Court that Rajwinder Singh, Rajmohinder Singh, Gurnam Singh, Gogan Singh, Surjit Singh and Amarjit Singh were convicted, whereas, others were left off. It is through the impugned

findings the learned Court had allowed the appeal of the appellants by modifying the same and allowing them probation on furnishing of bail bonds of Rs.10,000/- with one surety each in the like amount for one year subject to payment of compensation amount of Rs.39,000/- to be distributed amongst the three injured equally. Aggrieved over these findings, one of the victim of this crime has sought to challenge the same through the instant petition.

Upon hearing learned counsel for the parties and appreciating the records of the case. The precise allegations that need to be appreciated are that on 8.9.2003 around 7.00 p.m. in the village Nandgar, Tehsil and District Bathinda 09 accused namely Rajwinder Singh, Rajmohinder Singh, Gurnam Singh, Gurprit Kaur @ Manpreet Kaur, Jasvir Kaur, Gogan Singh, Surjit Singh, Amarjit Singh and Balvir Kaur were alleged to have formed unlawful assembly and armed with deadly weapons with common intention and object forcibly took over the possession of house of the complainant Sarabjit Kaur and caused injuries to the family. It is alleged that one of the accused Gogan Singh committed theft of gold earring and *koka* worn by Beant Kaur.

After completion of investigations, challan was presented, wherein, Surjit Kaur, Amarjit Singh and Balvir Kaur were held innocent but subsequently summoned under Section 319 Cr.P.C vide order dated 1.10.2005. The prosecution at the trial examined PW1 Sarabjeet Kaur (wrongly denoted as PW6), PW2 Karmjit Kaur, PW3 Ranjeet Kaur, PW4 Dr. Anu Gupta, PW5 Dr. Kasturi Lal, PW7 Dr. Kuldeep Rai Garg and PW8 SI Balwinder Singh. On closer of the prosecution evidence, the accused were asked to explain their stand under Section 313 Cr.P.C and in the

defence they examined DW1 Buta Singh, DW2 Jawahar Lal, DW3 Parvinder Singh, DW4 Hati Ram and tendered documents Ex.D5 to Ex.D9 and closed the evidence leading to passing of judgment of conviction.

Appreciating the submissions of the two sides, the convicts have been found guilty for commission of offences under Sections 452,323,324,148 and 149 IPC. As is contended by the learned counsel there is a dispute over property comprising of house between the parties and the allegations are that the accused side had forcibly taken possession of the same. Learned counsel for the respondents has not at all sought to assail the findings of conviction so recorded but has sought to oppose the contention of the learned counsel for the petitioner as the latter has sought to put forth that there has been illegitimate and illegal exercise of judicial powers by the Court below by releasing the convicts-respondents on probation. Admittedly, there is a property dispute between the parties which is a subject of adjudication by the Civil Court. The occurrence has taken place in the year 2003. The respondents have suffered agony of investigations, trial and conviction throughout till date for the period of almost 13 years. They have only been found guilty for committing simple injuries and have only been sentenced to undergo rigorous imprisonment for one and a half years. It is not the case of the petitioner that the respondents/convicts have any criminal history and both the parties are residents of the same village and if convict-respondents are sent behind the bars would certainly sow the seeds of ill will and hatred as well as vengeance with each other leading to more complications between them. The very question over possession of disputed house can be well chalked out by the Civil Court and as an effort to bring about peace and harmony amongst the two sides as well as in the

village the Court below in the impugned judgment has rightly held that trial Court has failed to exercise powers under Section 360 Cr.P.C and has chosen to come forward to grant such a relief to the respondents commensurate with the Reformatory Theory of Jurisprudence. More so, the respondents are members of the same family and must have suffered enormously and that the part of the prosecution story has been held to be false, as a consequence of which, some of the accused have been left off the hook. Besides, the fact that there is version and cross-version as private complaint has already been filed from the side of the accused are matters which weigh heavily in the mind of this Court. Thus, the Court below has rightly resorted to exercise its powers under Section 360 Cr.P.C in the larger public interest and in the interest of the family members of the convicts by keeping them on the track of rectitude. This Court does not find any illegality or perversity in the impugned order, thus, the revision petition being devoid of any merits stands dismissed.

(FATEH DEEP SINGH)
JUDGE

September 06, 2016

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No