

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-2263-2015 (O & M)
Date of decision:02.02.2016

Kaka Singh and ors. ...Petitioner(s)

Versus

State of Punjab and anr. ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. I.S. Dhaliwal, Advocate,
for the petitioner(s).

Mr. R.S. Randhawa, Addl.A.G., Punjab.

Rajan Gupta, J. (oral)

Petitioners Kaka Singh, Rinku and Mander Singh had been convicted by the Judicial Magistrate Ist Class, Malout, under sections 326, 323/34 IPC and were sentenced to undergo imprisonment as under:-

(Kaka Singh and Rinku)

Offence	Sentence
326/34 IPC	To undergo R.I. for three year and to pay fine of ₹500/- each and in default thereof to further undergo R.I. for two months.
323 IPC	To undergo R.I. for six months without fine.

(Mander Singh)

Offence	Sentence
326 IPC	To undergo R.I. for three year and to pay fine of ₹500/- and in default thereof to further undergo R.I. for two months.
323/34 IPC	To undergo R.I. for six months without fine.

The petitioners preferred appeal before Additional Sessions Judge, Sri Muktsar Sahib, against the judgment of their conviction/sentence. Vide judgment dated 10.06.2015, same was dismissed. Feeling aggrieved against the judgments of both the courts below, petitioners have approached this court through the instant Criminal Revision.

Learned counsel for the petitioners at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioners is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 06.05.2014, at about 8.00 a.m., the complainant Gorkha Singh was returning to his house, after receipt of wages from the house of Sukhdev Singh, Member Panchayat. When he reached near the house of Dilbag Singh, the accused Kaka Singh armed with *gandasa*, Rinku Singh armed with *dang* and Mander Singh armed with *kirpan* were already standing on the road. They restrained the complainant. Accused Rinku Singh inflicted stick blow, accused Kakka Singh inflicted blow from the reverse side of *gandas* and accused Mander Singh inflicted *kirpan* blow. Accused Paramjit Singh raised lalkara that '*complainant should be taken inside the house.*'

Complainant raised noise and then Darshan Singh and Bhunda Singh came at the spot and rescued the complainant from the clutches of the accused. Complainant was got admitted in the hospital at Alamwala. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 326, 323 and 34 IPC was framed against the accused/petitioners, to which they pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as five witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. The accused, however, examined only one witness in their defence.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charges under sections 323 and 326/34 IPC and sentenced them as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Sri Muktsar Sahib.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioners guilty of the charge framed against them. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by

both the courts below. The conviction of the petitioners is, thus, affirmed.

Even counsel for the petitioners, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioners are poor men and are doing labour, having small kids. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record separate affidavits of Kamalpreet Singh (PPS), Superintendent, District Jail, Sri Muktsar Sahib, according to which the petitioners Kaka Singh and Rinku Singh had undergone actual custody including remission of 08 months and 28 days and petitioner Mander Singh had undergone actual custody including remission of 09 months and 26 days as on 01.02.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioners shall be reduced to one year. But the petitioners are burdened with a fine of ₹25,000/- each to be paid as compensation to the complainant Gorkha Singh. Ordered accordingly.

The amount of fine if not already paid shall be deposited within three months from the date of receipt of certified copy of this order. However, in case fine and compensation as above is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioners shall undergo the

remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

02.02.2016
sukhpreet

(RAJAN GUPTA)
JUDGE