

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR-2296-2015

Date of Decision: February 18, 2016

Ashok Kumar and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Vipin Mahajan, Advocate,
for the petitioners.

Mr. P.S. Ghuman, Addl. AG, Punjab,
for respondent No. 1.

Mr. Vishal Munjal, Advocate,
for respondent No. 2.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J. (Oral):

Challenge in the present criminal revision petition is to the order dated 5.6.2015, passed by learned Additional Sessions Judge, Pathankot, whereby the appeal filed by the petitioners challenging their conviction and sentence for the offences punishable under Sections 323/34, 324/34 and 452, IPC, recorded by learned Sub-Divisional Judicial Magistrate,

Pathankot, was dismissed.

At the very outset, learned counsel for the petitioners contends that in view of concurrent findings of both the Courts below, he does not propose to challenge the conviction of the petitioners. He, however, submits that during course of preliminary hearing of the present petition it was agreed that the petitioners would pay a sum of ₹80,000/- (Rupees eighty-thousand only) to the injured persons in addition to the compensation granted by learned Court below. The interim (*zimni*) order passed by this Court would reveal that the additional amount of compensation agreed before this Court, was paid to the informant, Dr. Janak Raj Sharma, in the presence of Mr. Vishal Munjal, his counsel.

Mr. Vishal Munjal, who is present in the Court, accepts that the additional amount of compensation was received by Dr. Janak Raj Sharma and, as such, he has no objection if the prayer of the counsel for the petitioners is accepted to the extent that the substantive sentence imposed upon the petitioners is reduced to the period already undergone by them.

Learned counsel for the State has no objection to the prayer of learned counsel for the petitioners to the extent that

the sentence of the petitioners is reduced to the period already undergone by them, in view of the amount of compensation paid to the injured/aggrieved persons, in terms of order dated 28.10.2015.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

Though learned counsel for the parties have agreed that the concession be extended to the petitioners in their substantive sentence, but before acceding to the said prayer, this Court deems it appropriate to re-scan the facts to find out the sustainability of the conviction of the petitioners for the offences punishable under Sections 323/34, 324/34 and 452, IPC.

On 19.10.2005, Dr. Janak Raj Sharma (PW-1) presented two MLRs, dated 18.10.2005, of Vandana (PW-5) and Atul Sharma (PW-3), before ASI Tarsem Lal (PW-4). Dr. Janak Raj Sharma (PW-1) disclosed to the ASI Tarsem Lal (PW-4) that he was a Registered Medical Practitioner (RMP) and running his clinic in Mohalla Sunder Nagar, Pathankot. On 18.10.2005, at 9:00 a.m. when he was present at his clinic, then the petitioners, Ashok Kumar and Dalip Kumar, entered there and abused him and thereafter Dalip Kumar gave a fist blow and also slapped

him. As a result thereof, he (Dr. Janak Raj Sharma) fell down on the earth and in such condition Ashok Kumar also inflicted kick blows. On hearing the noise, his sister-in-law, Vandana Sharma, and son, Atul Sharma, arrived at the spot and attempted to rescue Dr. Janak Raj Sharma from the clutches of the accused. In the meantime, petitioner Ashok Kumar took out a knife from his pocket and inflicted a blow on the right hand of Atul Sharma and thereafter both the petitioners ran away from the spot.

After registration of the FIR, the investigation was carried out and the charge-sheet (report under Section 173, Cr.P.C.) was presented before learned Area Judicial Magistrate. The charges for the offences punishable under Sections 323, 324 and 452 read with Section 34, IPC, were framed against three persons, namely, Ashok Kumar and Dalip Kumar (petitioners) and Chaman Lal (since died).

In order to substantiate its case, the prosecution had examined Dr. Janak Raj Sharma (PW-1), Kulwant Rai (PW-2), Atul Sharma (PW-3), Tarsem Lal (PW-4), Vandana (PW-5), Dr. Tarsem Singh (PW-6) and thereafter learned Additional Public Prosecutor closed the prosecution evidence.

The statements of the petitioners in terms of Section 313, Cr.P.C., were recorded in which they denied the

allegations appearing against them and pleaded innocence. No evidence in defence was led.

After hearing learned counsel for the parties, learned Trial Court held the petitioners guilty and awarded the sentence as enshrined in the order of sentence.

The appeal filed by the petitioners was also dismissed by learned Court of Session.

Perusal of the material available on record would clearly spell out that the verdict of guilt returned by learned Trial Court and affirmed by learned Appellate Court is well based and, as such, learned counsel for the petitioners has correctly opted not to challenge the conviction of the petitioners.

So far as the alternative submission of learned counsel for the petitioners for reduction of the sentence is concerned, appears to be genuine. The compensation as enshrined in the order dated 22.9.2015, has been paid to the informant/complainant. Each petitioner has suffered incarceration for three months and eighteen days (as admitted by learned counsel for the State). Admittedly, the injury suffered by the injured persons were simple in nature.

In view of totality of the facts and circumstances of the

case, while maintaining the order of fine imposed by learned Trial Court and affirmed by learned Appellate Court, the substantive sentence of both the petitioners is reduced to the period already undergone, i.e. three months and eighteen days.

With the above modification in the order of sentence, the present criminal revision petition is disposed of.

(NARESH KUMAR SANGHI)
JUDGE

February 18, 2016
Pkapoor