

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 283

Criminal Revision No.1160 of 2016 (O & M)

Date of Decision: March 28, 2016

Mahender Singh & others

..... PETITIONERS

VERSUS

State of Haryana

..... RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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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?

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PRESENT: - Mr. Jitender Nara, Advocate, for the petitioners.

Mr. Tanuj Sharma, Assistant Advocate General,
Haryana.

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Jaspal Singh, J

1. The instant revision petition has been preferred by the accused – petitioners, challenging their conviction and sentence vide judgment/order dated June 15, 2015 passed by the Additional Chief Judicial Magistrate, Jhajjar, as well as judgment dated March 15, 2016 passed by the Additional Sessions Judge, Jhajjar, rendered in case bearing FIR No.105 dated April 25, 2012, under Sections 341/34 IPC, Police Station, Salhawas, District Jhajjar.

2. Briefly stated, on April 25, 2012, an application was moved by the then Sarpanch of Gram Panchayat, Village Kondrawali on behalf of Gram Panchayat, was received at Police Station, Salhawas, for taking legal action against accused – petitioners, Mahender son of Ravi Dutt, Mahender, Narender and Chand and Pappu sons of Duli Chand, who had obstructed the main rasta of village Kondrawali. FIR was registered and investigation was set into motion. Accused were arrested.

3. After completion of investigation, challan against accused – petitioners, was presented in the court of jurisdictional Magistrate. They were supplied the copies of police report and other documents appended therewith as required under Section 207 Cr.P.C., free of costs.

4. Finding a prima facie case against the accused, they were charge-sheeted for offences under Section 341 IPC read with Section 34 IPC, to which, they pleaded not guilty and claimed trial.

5. In order to prove the charges, prosecution examined as many as 6 witnesses.

6. Incriminating circumstances appearing in the prosecution evidence were put to accused in their statement under Section 313 Cr.P.C. who denied the same, pleaded innocence and complained of false implication. No evidence in defence was led.

7. After hearing learned counsel for the parties and having gone through the material available on record, the Trial Court vide judgment dated June 6, 2015, held both the accused guilty, convicted under Section 341 IPC read with Section 34 IPC and sentenced them to undergo RI for a period of one month alongwith fine to the tune of ₹ 5,00/- each and in default of payment of fine, to further undergo RI for 7 days.

8. Appeal preferred by the accused – petitioners before the lower appellate court was dismissed vide judgment dated March 15, 2016.

9. Now, accused – petitioners have approached this Court by way of instant revision petition challenging his conviction and sentence imposed by the courts below vide judgments/orders referred to above.

10. At the very outset of arguments, learned counsel for the petitioners submits that he does not press the petition qua conviction, however, the petitioner be heard only qua quantum of sentence. This Court has also scrutinized the impugned judgments as well as the relevant documents/ evidence and is of the considered view that there is no scope for any interference in impugned judgment(s) as far as the conviction of the petitioner under the aforesaid provisions of IPC is concerned. As such, the conviction of the petitioner is upheld.

11. As far as quantum of sentence is concerned, learned counsel for the petitioners has submitted that the petitioners are first offenders. No other case of similar nature is either pending or disposed of against them. They never misused the concession of bail during trial. They have already undergone a period of more than 13 days of actual sentence, out of the substantive sentence of one month. Accordingly, learned counsel for the petitioners prays that sentence imposed upon the petitioners be reduced to the period already undergone.

12. This Court has given an anxious thought to the submissions made by learned counsel and has gone through the record available on file.

13. As per the custody certificate dated March 27, 2016, by now, the petitioners have already undergone approximately 15 days out of total sentence of one month.

14. In similar circumstances, the Hon'ble Apex Court in case Harjit Singh v. State of Haryana, (2002) 10 SCC 695 had reduced the sentence of 7 years under Section 25 of the Arms act as already undergone (more than 5 years). To the same effect is the judgment in case Kirpal Singh v. State of Punjab, 2009(1) AICLR 5 of 7 whereby this Court had reduced the sentence of petitioner to already undergone, taking into consideration the fact that petitioner has three children – there is no one to look after his family – petitioner has already undergone sentence of more than 5 months out of total sentence of one year. In cases Jagdeep Singh @ Neetu v. State of Punjab, 2013(2) Law Herald 1849; Surjit Singh v. State of Punjab, 2003(2) RCR (Criminal) 429, Sudhir v. State of Haryana, 2001(2) RCR (Criminal) 336; and Chhotu Ram v. State of Haryana, 2013(4) RCR (Criminal) 630, similar view has been adopted.

15. Taking into consideration the totality of facts and circumstances, though, conviction of the petitioners is upheld but the sentence imposed upon them under Section 341 IPC read with Section 34 IPC is reduced to the period already undergone by them with no change in fine clause. The petitioners are ordered to be released forthwith in this case.

16. With the above modification in the sentence, the revision petition is dismissed.

CrI. Misc. No.9622 of 2016

In view of the aforesaid judgment rendered in the main case itself, application under Section 397 Cr.P.C. for suspension of sentence has rendered infructuous and is disposed of as such.

March 28, 2016
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(Jaspal Singh)
Judge