

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.17 of 2016 (O&M)
Date of Decision: 26.05.2016

Dalbir Singh & others
...Petitioner(s)

Versus

State of Punjab & another
...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

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

Present:- Mr. Amit Arora, Advocate
for the petitioners.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA, J.

Petitioners namely Dalbir Singh, Swaran Singh and Yadwinder Singh have filed the present revision petition against the judgment dated 2.11.2015 passed by learned Sessions Judge, Tarn Taran, whereby their appeal against the judgment of conviction and order of sentence dated 2.8.2014 passed by Sub Divisional Judicial Magistrate, Khadur Sahib has been dismissed, however, their conviction and sentence has been modified as under:-

<i>Sr. No.</i>	<i>Name</i>	<i>Under Section</i>	<i>R.I.</i>	<i>Fine</i>	<i>In default SI</i>
1.	Dalbir Singh	324 IPC	For one year	Rupees 500	Ten days

2.	<i>Yadwinder Singh</i>	324 <i>IPC</i>	<i>For one year</i>	<i>Rupees 500</i>	<i>Ten days</i>
3.	<i>Swaran Singh</i>	324 <i>IPC</i> <i>r/w 34</i> <i>IPC</i>	<i>For one year</i>	<i>Rupees 500</i>	<i>Ten days</i>

Briefly stated, the facts of the case are that the complainant Hardev Singh, who is an agriculturist, used to recite the path of Shri Akhand Sahib. On 4.10.2008 at about 7.30 p.m, he was going on his duty and when he reached near the street, then Swaran Singh armed with *dang*, Dalbir Singh armed with *dattar* and Yadwinder Singh armed with *kirpan*, Binder Kaur armed with *dang*, all residents of Village Sarli Khurd, were standing on the way. Swaran Singh raised *lalkara* that he be taught a lesson for the fight in the year 1997. On this, Dalbir Singh gave a *dattar* blow from its reverse side, which hit the complainant on his right shoulder. Dalbir Singh gave another *dattar* blow which hit below his right knee. Yadwinder Singh gave two *kirpan* blows which hit on the right side of the head of the complainant. Binder Kaur abused the complainant. On seeing this, the wife of the complainant Manjit Kaur raised hue and cry “mar ditta maar ditta”, to which, all the accused ran away from the spot along with their respective weapons. In the meanwhile, complainant’s brother Kabal Singh came at the spot who arranged a vehicle and took the complainant to hospital, where he was hospitalized. On completion of investigation, challan under Section 173 CrPC was presented in Court and copies of the documents were supplied to the accused free of cost, as envisaged under Section 207 CrPC.

On the basis of report submitted by the police under Section 173 CrPC, charge was framed against the accused under Sections 326/34 IPC, to which they pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined PW-1 Dr. Harsimrat Singh who tendered his affidavit Ex.PW1/A along with copy of MLR Ex.PW1/B, Pictorial Diagram Ex.PW1/C, X-ray film Ex.PW1/E and declaration of injury as Ex.PW1/D.

Prosecution also examined PW-2 Complainant Hardev Singh and PW-3 Manjit Kaur.

The trial Court determined following point to settle the controversy:-

“Whether on 4.10.2008 at about 7.30 pm, all accused caused grievous hurt on the person of Hardev Singh by means of dattar which is an instrument of shooting etc. and thereby, all accused committed an offence punishable U/s 326/34 IPC”

Learned trial Court found that the injuries on the person of the complainant Hardev Singh was fully corroborated by medical evidence and accordingly, convicted the petitioners for offence under Sections 326/34 IPC vide judgment dated 2.8.2014 and vide separate order of even date, sentenced them as under:-

<i>Sr. No.</i>	<i>Offence under section</i>	<i>Sentence</i>	<i>In default of payment of fine</i>
<i>1.</i>	<i>326 Indian Penal Code read with Section 34 IPC</i>	<i>Rigorous imprisonment for two years and fine of Rs.500/- each.</i>	<i>To undergo further simple imprisonment for one month.</i>

Aggrieved from the aforesaid judgment of conviction and order of sentence, the petitioners preferred an appeal before learned Additional Sessions Judge, Tarn Taran and learned Appellate Court vide judgment dated 2.11.2015 though dismissed the appeal, but modified the conviction as

well as the order of sentence. The petitioners were convicted for offence under Sections 324/34 IPC and were sentenced, as indicated above.

It is in the aforesaid circumstances, the petitioners have filed the present revision petition challenging the judgment of conviction and order of sentence dated 2.11.2015 passed by learned Additional Sessions Judge, Tarn Taran.

On 7.1.2016, following order was passed by this Court:-

“After arguing for some time, learned counsel for the petitioners confined his arguments only qua the quantum of sentence.

Notice of motion to this extent only for 18.02.2016.

Learned counsel for the petitioners in all fairness has confined his arguments only *qua* the quantum of sentence. He submitted that he does not press this petition on merits, however, he submitted that as against the modified sentence of one year, petitioner no.1 - Dalbir Singh, who is 55 years of age, is in custody for the last about 8½ months, petitioner no.2 Swaran Singh who is an old person of 80 years of age and remained in custody for more than 3½ months (whose sentence has been suspended by this Court vide order dated 18.2.2016) and petitioner no.3 is a young boy and is in custody for the last about 7 months and there is no other case against them. Therefore, taking into consideration the nature of offence alleged against them, their sentence may be reduced to the period already undergone by them, as they have already suffered the protracted trial for the last about 8 years since the registration of the FIR on 6.10.2008 and it should be a sufficient mitigating circumstance to treat them leniently. Learned counsel further submitted that the petitioners are first time offenders and they are not involved in any other case except the present one.

Learned State counsel has already filed custody certificate of the petitioners and does not dispute that as against the modified sentence of one year, petitioner no.1 Dalbir Singh is in custody for the last about 8½ months, petitioner no.2 Swaran Singh has remained in custody for more than 3½ months and petitioner no.3 Yadwinder Singh is in custody for the last about 7 months and there is no other case against them.

However, learned State counsel has argued that keeping in view the injuries inflicted upon the complainant by the petitioners, they do not deserve the concession of reduction in sentence.

I have heard learned counsel for the parties and gone through the record of the case.

In the case of **Sohan Lal v. State of Punjab 1979 CLJ (Criminal) 113** where the accused was first time offender and had undergone the sentence of 3½ months, his sentence was reduced to the period already undergone by him. Similarly, in the case of **Balwinder Singh v. State of Punjab CRR No.2674 fo 2012 decided on 31.10.2012** this Court had reduced the sentence of the accused therein under Sections 323, 325 and 326 IPC.

The custody certificates of the petitioners show that they have never been involved in any other case except the present one and as against the awarded sentence of one year, petitioners no. 1 and 3 have remained in custody for the last more than 7 to 8 months whereas the custody period of petitioner no.2 who is more than 80 years and is on bail, comes to about 3½ months. Therefore, considering the fact that the petitioners have suffered a protracted trial since the year 2008 and there is no previous conviction to their discredit, this Court feels that ends of justice will be met if the

conviction of the petitioners is maintained and the sentence awarded to them is reduced to the period already undergone by them.

In these circumstances, while upholding the judgment of conviction and order of sentence passed by lower Appellate Court, the present revision petition is dismissed. However, the sentence awarded to the petitioners is reduced to the period already undergone by them. The petitioners no.1 and 3 be released forthwith, if they are not required in any other case.

May 26, 2016
AK

(HARI PAL VERMA)
JUDGE