

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Revision No.1744 of 2016 (O&M)

.....

Date of decision:28.5.2016

Tikka Singh and others

...Petitioners

v.

State of Punjab

...Respondent

.....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Kulbir Singh Sekhon, Advocate for the petitioners.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent-State.

.....

Inderjit Singh, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. challenging the impugned judgment dated 12.4.2016 passed by learned Additional Sessions Judge, Sri Muktsar Sahib, whereby the appeal filed against the judgment of conviction and order of sentence dated 22.9.2015 passed by learned Judicial Magistrate Ist Class, Malout, convicting and sentencing the petitioners for the offences under Sections 323, 452, 148 and 149 IPC and sentencing them to undergo rigorous imprisonment for one year each and to pay a fine of ₹500/- each and in default of payment of fine to further undergo rigorous imprisonment for one month each for the offence under 452 IPC and also sentencing them under

other Sections of IPC, has been dismissed.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Therefore, notice of motion was issued qua quantum of sentence only.

Ms. Shivali, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and contested this criminal revision petition.

The brief facts of the case as noted down by the learned Judicial Magistrate Ist Class, Malout in his judgment dated 22.9.2015 are as under:-

“Briefly averred the prosecution story is that on dated 23.01.2012, MLR pertaining to Shahwinder Singh son of Shivraj Singh bearing No.01/GS/2012 received at Police Station, upon which ASI Surjit Singh along with ASI Jaswinder Singh and PHG Mithu Ram reached PHC Chak Sherewala and obtained written opinion of the Doctor regarding fitness of the injured to make statement and the Doctor declared the injured fit to make statement. Thereafter, ASI Surjit Singh recorded the statement of injured Shahwinder Singh son of Shivraj Singh resident of Cibbrawali, wherein injured Shahwinder Singh stated that he is resident of above said address. He is an

agriculturist. Yesterday on 22.01.2012 at about 1.30 P.M. he and his mother Sukhpal Kaur and wife Gurwinder Kaur were talking while sitting on the cot. In the meantime, Gurdev Singh son of Bukan Singh empty handed, Tikka Singh son of Gurdev Singh armed with Dang, Bhola Singh son of Lal Singh armed with Dang, Pal Singh son of Lal Singh armed with dang and Lal Singh son of Tar Singh armed with Dang residents of Chibbran Wali came and entered in their house. Then Gurdev Singh raised lalkara to caught hold Shahwinder Singh, as he (Shahwinder Singh) is stopping them to take the cattle in the field. In the meantime, Pala Singh son of Lal Singh gave a dang blow towards him which hit on his forehead above the eye and then Lal Singh son of Tar Singh gave dang blow towards him, which hit on the back side of his right shoulder, then Tikka Singh son of Gurdev Singh gave dang blow towards him, which hit below the elbow joint of his right hand. Then Bhola Singh son of Lal Singh gave dang blow towards him and in order to save himself he raised his right arm, which hit on the little above of his right wrist. Complainant further stated that then he raised roula Marta Marta and his mother and wife also raised roula Na Maro Na Maro, then all the above said persons ran away from the spot along with their respective weapons from their house. The motive behind the occurrence is that these persons were causing damage to their field with cattle and he

was stopping them and due to this grudge the accused have caused injuries to him. Then, in the meantime Jaskaran Singh sarpanch came at the spot in their house, who after arranging the vehicle, got him admitted at PHC Chak Sherewala, where he is being treated. It is requested that action be taken against the accused persons.”

Learned Judicial Magistrate Ist Class, Malout, after appreciating the evidence, convicted and sentenced the petitioners as stated above. An appeal was filed by the petitioners and the same was dismissed by learned Additional Sessions Judge, Sri Muktsar Sahib vide judgment dated 12.4.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

Learned counsel for the petitioners argued that the petitioners were young persons at the time of commission of the offences. Petitioners Tikka Singh, Pala Singh and Bhola Singh were young persons between the age of 25 to 28 years age and petitioner Lal Singh was aged about 48 years. They are suffering from the long protracted criminal proceedings for the last more than four years. He also argued that only simple injuries are attributed to the petitioners. They are poor persons and only bread earners of their families. They have already undergone imprisonment of one month and 13 days each out of the total sentence.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioners are only bread earner of their families and are suffering from long protracted criminal proceedings for the last more than four years and in view of the fact the petitioners have already undergone imprisonment of 1 month and 13 days each out of the total sentence, the sentence imposed upon the petitioners is reduced and they are directed to undergo rigorous imprisonment for three months each instead of one year/six months each for the offences under Sections 452, 148, 323 and 149 IPC. However, the sentence of fine and in default thereof, will remain the same. All these sentences shall run concurrently.

With the above modification in the sentence of imprisonment, the present revision petition is dismissed.

May 28, 2016.

(Inderjit Singh)
Judge

hsp