

Criminal Revision No.1790 of 2016 (O & M)

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 247

Criminal Revision No.1790 of 2016 (O & M)

Date of Decision: August 10, 2016

SUBHASH KUMAR @ SUBHASH CHAND AND OTHERS

..... PETITIONERS

VERSUS

STATE OF PUNJAB

..... RESPONDENT

...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

...

PRESENT: - Mr. Atul Goyal, Advocate, for the petitioners.

Mr. J.S. Sekhon, Assistant Advocate General, Punjab.

Mr. Chander Shekhar Singh, Advocate for the complainant.

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Jaspal Singh, J.

1. The instant revision has been preferred by Subhash Kumar @ Subhash Chand, Kamaljit Sharma & Jasvir Singh-petitioners challenging judgment/order dated November 20, 2014, passed by the Sub Divisional Judicial Magistrate, Samrala, in case bearing FIR No.112, dated June 27, 2009, under Sections 323, 325 & 34 IPC, Police Station Samrala as well as judgment dated April 26, 2016 passed by learned Additional Sessions Judge, Ludhiana. Vide judgment/order dated November 20, 2014, they were convicted and sentenced as under:-

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Name of Accused	U/s	RI	Compensation (₹)	In default (R.I.)
Subhash Kumar @ Subhash Chand	325 read with Section 34 IPC 323 read with Section 34 IPC 357(3) Cr.P.C.	2 years 2 months ---	--- --- 15000/-	--- --- two months
Kamaljit Sharma	325 read with Section 34 IPC 323 read with Section 34 IPC 357(3) Cr.P.C.	2 years 2 months ---	--- --- 15000/-	--- --- two months
Jasvir Singh	325 read with Section 34 IPC 323 read with Section 34 IPC 357(3) Cr.P.C.	2 years 2 months ---	--- --- 15000/-	--- --- two months

2. During the pendency of the revision petition, an application vis. Criminal Miscellaneous No. 17955 of 2016 was moved asserting that parties have effected a compromise. The aforesaid application was allowed by this Court vide order dated June 03, 2016 and copy of affidavit/compromise (Annexure P-1) was taken on record. It is evident from the affidavit of complainant/compromise dated May 26, 2016, that with the intervention of relatives and respectables of the village, a compromise has been effected between the parties, after conviction of petitioners. Now, the complainant has no grievance at all. The misunderstanding between the complainant and the accused-petitioners has been peacefully settled without any coercion or undue influence and now there is no ill will between the parties. Further that, complainant has no objection whatsoever, if the petitioners are discharged.

3. Learned counsel for the complainant also reiterates that a compromise has been arrived at between the parties with the intervention of respectables and relatives and he has no objection, if the impugned judgment of conviction and order of sentence are set aside and accused are acquitted.

4. There are mitigating circumstances to take a lenient view in the matter. Moreover, petitioners are facing the agony of protracted trial for the last more than 07 years after registration of the instant case and they are first

offenders. They have already suffered incarceration for a period of more than 03 months, as is evident from custody certificate dated July 18, 2016.

5. Besides the aforementioned factors, it would be appropriate to mention here that during the pendency of the instant petition, the parties have effected the compromise with the intervention of respectable, without any pressure.

6. Keeping in view the aforesaid aspects of the matter and the fact that matter has been amicably settled between the parties, this court is of the considered view that continuation of proceedings between the parties would be an abuse of process of law and present compromise is for their benefit and will bring peace & harmony between them. Amicable settlement of the dispute between the parties, is another major factor to take a lenient view in the matter of sentence. Thus, this Court is of the considered view that a chance be given to the petitioners to reform & improve themselves; to become good responsible citizens/persons; and to lead a peaceful & harmonious life.

7. Consequently, instant petition stands allowed. Impugned judgment(s)/order passed by the courts below are set aside and accused-petitioners are acquitted of the charge framed against them.

August 10, 2016
avin/ankur

(Jaspal Singh)
Judge

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No