

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

(i)

CRR No.1840 of 2016 (O&M)

Sandeep Kumar

...Petitioner

VERSUS

State of Punjab

...Respondent

(ii)

CRR No.2155 of 2016 (O&M)

Jagdev Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

Date of Decision: September 02, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Ramesh Sharma, Advocate
for the petitioners.

Mr.Varun Sharma, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

This order shall dispose of above-mentioned two connected revisions as the point for determination in both the revisions is the same.

The above-mentioned revision petitions have been filed by petitioners against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 10.09.2014 passed by learned Judicial Magistrate Ist Class, Jalalabad, vide which the petitioners

were convicted and sentenced to undergo imprisonment for a period of three

years and to pay fine of ₹1000/- and in default of payment, to undergo imprisonment for a period of one month each under Section 452 IPC and also challenging the judgment dated 02.05.2016 passed by learned Addl. Sessions Judge, Fazilka, vide which appeal filed by petitioner was dismissed.

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

Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

The brief facts of the case as noted down in the judgment passed by learned JMIC, Jalalabad, are as under:-

“2. Succinctly, the present FIR has been registered on the statement of complainant Prem Parkash s/o Kanhya Ram that on the intervening night of 13/14.10.09 in the area of village Peer Mohammad in furtherance of common intention all the accused agreed to do an illegal act and committed house trespass by entering into the house of complainant after having made preparations for causing hurt to Paramjit Kaur daughter of complainant besides criminally intimidated the complainant and his daughter. So, the present case was registered against the accused. Investigation was initiated and after completion of investigation the challan was presented in the Court. ”

Learned JMIC, Jalalabad, after appreciating the evidence, convicted and sentenced the petitioners as stated above. Appeals were filed by the petitioners and the same were dismissed by learned Addl. Sessions Judge, Fazilka, vide judgment dated 02.05.2016.

Aggrieved from the above-said judgments, the present revision petitions have been filed.

Learned counsel for the petitioners argued that petitioner are first offenders, poor persons and only bread earner of the family. He further contended that the petitioners are suffering from criminal proceedings since 2009 and petitioner Jagdev Singh has already undergone actual sentence of 2 years 3 months and 21 days and petitioner Sandeep Kumar has already undergone actual sentence of 4 months including remissions.

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, nature of the offence, and in view of the fact that petitioners are first offender, suffering from long protracted criminal proceedings since 2009 i.e. for the last about seven years and in view of the fact that petitioner Jagdev Singh has already undergone actual sentence of 2 years 3 months and 21 days including remission of 1 month and 12 days and petitioner Sandeep Kumar has already undergone actual sentence of 4 months including remission of 1 month and 12 days, the sentence imposed upon the petitioners is reduced to the sentence already undergone by them. However, the sentence of fine and in default thereof, shall remain the same.

Resultantly, the both the revision petitions stand partly allowed.

Petitioners, Sandeep Kumar and Jagdev Singh, who are in custody, be set at liberty forthwith, if their custody is not required in connection with any other case, subject to payment of fine, if already not paid. As argued, fine has already been paid.

September 02, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No