

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-3524-2015(O&M)
Date of Decision: February 10, 2016

Subash Chander and others ...Petitioners
Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

**Present: Mr.S.K.Chaudhary, Advocate,
for Mr.L.S.Mann, Advocate,
for the petitioners.**

**Mr.K.S.Pannu, DAG, Punjab,
for the respondent.**

NARESH KUMAR SANGHI, J.

Challenge in this criminal revision petition is to the judgment dated 07.08.2015 passed by learned Sessions Judge, Pathankot, whereby the appeal filed by the petitioners challenging their conviction and sentence for the offences punishable under Sections 148, 323 read with Section 149 and 452 read with Section 149, IPC recorded by learned Additional Chief Judicial Magistrate, Pathankot, was dismissed.

When the present revision petition came-up for preliminary hearing before this Court on 18.09.2015, then notice of motion was issued with regard to the quantum of sentence only.

The learned counsel for the petitioners contends that on a manure-pit, the quarrel had originated between the petitioners and the injured, who are neighbours; three persons from the petitioners' side had also received injuries in the same incident; the petitioners are neither required nor involved in any other case; they are labourers and doing the job of fixing of the stones on the floor; each petitioner is independently bread-winner of his family; each petitioner has suffered more than six months of substantive sentence; during incarceration the petitioners have earned the jail remissions which would show that they are improving themselves in jail and that further incarceration of the petitioners would not be justified in view of the allegations levelled against them.

The learned counsel for the State has produced the affidavits of the Deputy Superintendent Sub Jail, Pathankot, to show the period of incarceration suffered by the petitioners, which are taken on record.

I have heard learned counsel for the parties with their able assistance and gone through the material available on record. Though, the notice has been issued with regard to the quantum of sentence only, yet to satisfy the conscience of this Court, the material available on record has been re-scanned with the assistance of learned counsel for the parties.

The brief facts are that on 29.11.2011, at about 3.30

p.m., while Vijay Kumar, informant was standing in front of the door of his shop, at that time, the petitioners armed with baseball bats and *datar* etc. emerged there and caused injuries to Vijay Kumar, Beena, Geeta Devi and Raghubir Singh. As many as ten simple injuries were received to the four injured persons. In the meanwhile, the petitioners had also entered into the courtyard of the house of the informant. After completion of the investigation, the charge-sheet (report under Section 173 Cr.P.C.) was presented. The learned trial Court framed the charges for the offences punishable under Sections 148, 323 and 452 read with Section 149, IPC, to which the petitioners pleaded not guilty and claimed trial.

In order to substantiate its case, as many as eight prosecution witnesses were examined by the prosecution. The relevant medical papers, site plan and recovery memos etc. were exhibited during trial.

In their statements recorded under Section 313 Cr.P.C., the petitioners denied the incriminating evidence emerging against them and pleaded their innocence. No evidence in defence was led.

After hearing the learned counsel for the parties, learned trial Court returned the verdict of guilt and convicted the petitioners for the offences punishable under Sections 148, 323 read with 149 and 452 read with 149, IPC and awarded the

various terms of substantive sentence.

The appeal filed by the petitioners was also dismissed.

After going through the material available on record, this Court finds that both the Courts below have correctly held the petitioners guilty for the offences punishable under Sections 148, 323 read with 149 and 452 read with 149, IPC and as such, no interference is called for so far as the conviction part is concerned.

There appears to be substance in the submissions of the learned counsel for the petitioners that none of the petitioners is a previous convict and each one of them has already suffered incarceration for more than six months. If the remissions are added in the substantive sentence, then each petitioner has suffered incarceration for seven months and twenty seven days. The simple injuries received by Vijay Kumar, Beena, Geeta Devi and Raghubir Singh have healed and it has been stated at the bar that they are leading a normal life. The quarrel had originated on account of a dispute over a manure-pit near the house of both the private parties.

In view of the totality of facts and circumstances of the case, the present criminal revision petition is partly allowed. The petitioners are directed to be released by reducing their sentence to the period already suffered by each one of them.

The fine imposed upon each petitioner is enhanced to ₹5,000/- (Rupees Five Thousand) for all the offences, which shall be deposited by them before learned trial Court within one month from their release from the jail. On receipt of the amount of fine, a total sum of ₹24,000/- (i.e. ₹6,000/- each x 4) shall be paid to four injured. After deposit of the amount of fine by the petitioners, the learned trial Court shall issue notice to the injured persons, namely, Vijay Kumar, Beena, Geeta Devi and Raghubir Singh, to withdraw the amount stated hereinabove as per norms. In case, the petitioners do not deposit the amount of fine as directed by this Court, then the sentence passed by the Courts below shall enure.

It is made clear that the fine imposed by the Courts below shall include the fine enhanced by this Court. The petitioners are stated to be behind the bars. Therefore, they are directed to be released at once, if not required in any other case.

(NARESH KUMAR SANGHI)
JUDGE

February 10, 2016
seema