

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 3964 of 2015
Date of decision : 23.02.2016

Shamsher Singh & anr.
....Petitioners

V/s

The State of Haryana & ors.
....Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Gaurav Tangri, Advocate for the petitioners.
Mr. Arun Luthra, AAG Haryana.
Mr. Vinod Bhardwaj, Advocate for respondent no. 3.

RAJAN GUPTA J.

Petitioners had been convicted by the Sub Divisional
Judicial Magistrate, Guhla under sections 323 & 325 IPC read with
section 34 IPC was sentenced to undergo imprisonment as under:-

Offence	Sentence
323/34 IPC	To undergo R.I. for six months and to pay a fine of ₹500/- each and in default thereof to further undergo S.I. for fifteen days.
325/34 IPC	To undergo R.I. for a period of two years and to pay fine of ₹1,000/- each and in default thereof to further undergo S.I. for one month.

All the sentences were ordered to run concurrently.

Petitioners preferred appeal before Sessions Judge,
Kaithal against the judgment of their conviction/sentence. Vide
judgment dated 15.09.2015, same was modified and sentence was
reduced from two years to six months. Except with this modification
in the quantum of sentence, appeal was dismissed. Feeling

aggrieved against the judgments of both the courts below, petitioners have approached this court through the instant Criminal Revision.

Learned counsel for the petitioners at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioners is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 07.02.2011, at about 3.00 p.m. respondent no. 3 alleged that he was labourer by profession and was constructing his house. Some sand and concretes were lying in front of his house for building the same. Petitioner no. 1 who was digging the water drain asked him to remove the sand and concretes in order to get water connection. When he objected, petitioner no. 1 started abusing him. He inflicted a danda blow on his arm and head. Thereafter he lifted a spade and gave a blow which hit him on his little finger of his left hand. When his father Hukam Chand (respondent no. 2) tried to rescue him, petitioner no. 1 gave a spade blow which hit on his nose whereas petitioner no. 2 gave a stick blow on his right arm. On raising hue and cry, they were

rescued and taken to CHC Guhla for treatment. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 323 and 325 read with section 34 IPC charge was framed against the accused/petitioners, to which they pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as eleven witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to them. They refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, learned trial court held the petitioners guilty of the charges under sections 323 and 325 read with section 34 IPC and sentenced them as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Kaithal except in the modification of sentence as already indicated above.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioners guilty of the charge framed against them. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality

in the findings given by both the courts below. The conviction of the petitioners is, thus, affirmed.

Even counsel for the petitioners, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioners are first offender and only bread earner of their families. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel submits that out of substantive sentence of six months awarded to the petitioners, they have already undergone four months and eight days. They have also paid ₹25,000/- as compensation to the complainant. Receipt in respect thereof has also been placed on record and is taken on record as mark 'A'.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioners shall be reduced to the period already undergone by them. Ordered accordingly.

The amount of fine if not already paid shall be deposited within one month from the date of receipt of certified copy of this order. However, in case fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioners shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

February 23, 2016

Ajay

(RAJAN GUPTA)
JUDGE