

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.4018 of 2014
Date of Decision: July 23, 2016

Karambir and others ...Petitioners

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Amit Prashar, Advocate
for the petitioners.

Mr. Munish Sharma, AAG, Haryana.

FATEH DEEP SINGH, J.

The petitioners-convicts Karambir, Balwinder, Rishipal, Mukesh and Dimple were tried in case registered by way of an FIR No.850 dated 17.12.2009 under Sections 148, 149, 323, 452, 506, 325 IPC Police Station, City Jind and vide judgment dated 20.3.2014 were found guilty under Sections 48, 149, 323, 452, 506, 325 IPC and were sentenced as under:-

Under Section 148 IPC	Rigorous imprisonment for a period of 01 year each and to pay a fine of Rs.300/- each and in default of the same to undergo simple imprisonment for 15 days.
Under Sections 323/149 IPC	Rigorous imprisonment for a period of six months each and to pay a fine of Rs.200/- each and in default of the same to undergo simple imprisonment for 15 days
Under Sections 325/149 IPC	Rigorous imprisonment for a period of 02 year each and to pay a fine of Rs.1000/- each and in default of the same to undergo simple imprisonment for one month.
Under Sections 452/149 IPC	Rigorous imprisonment for a period of 02 year each and to pay a fine of Rs.1000/- each and in default of the same to undergo simple imprisonment for one month.
Under Section 506/149 IPC	Rigorous imprisonment for a period of six months each and to pay a fine of Rs.200/- each and in default of the same to undergo simple imprisonment for 15 days.

The judgment of conviction was challenged by the convicts and the Court of learned Additional Sessions Judge, Jind vide judgment order dated 20.11.2014 dismissed the appeal and that is how the petitioners are before this Court.

Before venturing into the submissions of the two sides the brief allegations of the prosecution made by the complainant Shamsheer Singh, were that on 15.12.2009 around at 10 a.m while he was on his house on account of some altercation with his neighbour and after they calmed down and had gone to their respective house it is alleged that after sometime accused Mukesh armed with iron rod and Rishipal armed with iron jali forcibly trespassed into the adjoining house of the brother of the complainant and assaulted him. It is alleged that Balwinder, Dimple and Miya Singh threw stones at the house of the complainant, as a consequence of this, complainant side received injuries.

The prosecution examined in all nine witnesses to establish their case, whereas, defence examined one to establish their plea.

Learned counsel for the petitioners at the very onset had made a humble prayer that since the petitioners for the last more than 07 years have suffered this prosecution and the sword of damocles has been hanging over them for such a long time and that the offences are not of heinous in nature, therefore, prayed for grant of concession of probation. The State counsel has stoutly opposed this prayer on the grounds that since the petitioners have taken the law in their hands, thus, are not entitled to any relief.

Appreciating the submissions, no doubt, the injuries are

by blunt means on the non-vital parts of the body of the victims and that the petitioners as well as the complainant are immediate neighbours and the petitioners are facing the ignominy of this prosecution since more than seven years and which would certainly have its repercussions on the petitioners as well as on their families and the petitioners are all real brothers, belonging to the same family and, thus, all the more adverse impact must have been caused on their families, wives, children and parents. Since it is admitted by the State counsel that the petitioners have already undergone incarceration for more than 01 year and 08 months, thus, a substantial incarceration and as is reflected from the orders dated 12.12.2014 of this Court have already deposited Rs.50,000/- in favour of legal heirs of the injured-complainant who has since died a natural death. Thus, sending the petitioners to custody would give rise to more hatred vengeance and might vitiate the atmosphere of these neighbours and, thus, to iron out their differences and for betterment of their future lives, it would sub-serve the ends of justice if the petitioners are allowed this concession of probation which would also save the petitioners from mixing up with criminal elements. The Courts below have totally lost sight of the provisions of Sections 360 and 361 Cr.P.C. which have been specially enacted to bring about such first time offenders back to the mainstream. Thus, an amount of ₹50,000/- is ordered to be given to the family-legal heirs of the victim (now deceased) in equal shares and the petitioners are allowed concession of probation for a period of one year on their entering into a bond in the sum of ₹20,000/- each with one surety each of the like amount to the satisfaction of the trial Court undertaking therein that they shall keep peace and maintain

good behaviour and shall appear and receive sentence as and when called upon to do so during the said period.

(FATEH DEEP SINGH)
JUDGE

July 23, 2016
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