

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

**CRL. REVISION No.3000 OF 2016 (O&M)
DATE OF DECISION : 29TH SEPTEMBER, 2016**

Ahmed & another

.... Petitioners

Versus

State of Haryana

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Daldeep Singh Sukharchakia, Advocate
for the petitioners.

Ms. Tanu Shree Gupta, DAG, Haryana.

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A. B. CHAUDHARI, J. (ORAL)

Rule heard forthwith with consent of counsel for the rival parties.

Custody certificate filed by the State is taken on record.

The petitioners were convicted by the trial Court for offence under Section 323 IPC and were sentenced to simple imprisonment for one year and fine of ₹1000/-. They challenged the order conviction and sentence before the lower appellate Court and the lower appellate Court reduced it to simple imprisonment for 06 months and maintained the sentence of fine. This revision petition is filed to challenge both the orders.

This court on 24.08.2016 had made following order:

*“On appreciation of evidence, the petitioners
were acquitted of offence under Section 325 IPC but*

convicted of charge under Section 323/34 IPC and sentenced to undergo imprisonment for one year, by the trial Magistrate. Reducing the sentence of imprisonment from one year to six months maintaining the sentence of fine, their appeal stands dismissed.

Learned counsel for the petitioners has contended that the conviction has been ordered on the basis of interested witnesses which is not trust worthy especially when on cross-examination, the credibility of the witnesses stood impeached.

I have heard learned counsel for the petitioners and I am of the opinion that there is no scope for re-appreciation of evidence and acquitting the petitioners but in view of the petitioners having suffered the agony of protracted trial, adopting a reformatory approach, there is a scope for hearing the petitioners on quantum of sentence especially when the petitioners have offered to pay additional compensation for the sole injury suffered by Jaituni.

Notice regarding quantum of sentence as well as application for suspension of sentence of imprisonment, to Advocate General, Haryana for 29.09.2016.

Counsel for the petitioners will seek instructions if the petitioners are ready to pay a compensation upto Rs.50,000/- to injured Jaituni.”

Pursuant to the said order the learned counsel for the petitioners submits that the petitioners could arrange only ₹20,000/- as they are not in a financial position to deposit an amount of ₹50,000/- by way of compensation for the complainant and the victim.

The learned counsel for the petitioners submits that both the petitioners have undergone the sentence of 01 month and 21 days and presently are in jail.

I have perused the judgment and orders made by the courts below so also the factual matrix in relation to the prosecution case. In my opinion, the interest of justice would be subserved if the petitioners are sentenced to the one which they have already undergone as the petitioners are ready to pay compensation in the sum of ₹20,000/-, which should be sufficient for the complainant and the victim.

Looking to the nature of offence, therefore, I think there is no point in admitting this revision petition and instead I make the following orders:

ORDER

- (i) CRL. REVISION No.3000 OF 2016 is partly allowed.
- (ii) The judgment and order of the courts below convicting the petitioners for offence under Section 323 IPC, are confirmed.
- (iii) The judgment and order of sentence convicting the petitioners are set aside and modified and the petitioners are sentenced to the period one already they have undergone namely 1 month 21 days each, subject to the deposit of ₹20,000/- with the trial Court within a period of two weeks from today, failing which the petitioners shall surrender before the trial Court to undergo the entire sentence earlier ordered by the court below. The trial Court shall pay the amount to the complainant and the victim in the case.

(iv) The petitioners shall be released forthwith, if not required in any other case.

29TH SEPTEMBER, 2016
‘raj’

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No.