

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 307 of 2016 (O&M)
DECIDED ON: MAY 11, 2016

KULWANT SINGH & ORS.

.....PETITIONERS

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH.

- 1. Whether Reporters of local papers may be allowed to see the judgment?*
- 2. To be referred to the Reporters or not?*
- 3. Whether the judgment should be reported in the Digest?*

Present: Mr. Gursimran Singh Bhatia, Advocate
for the petitioners.

Mr. A.S. Kler, DAG, Punjab.

JASPAL SINGH, J (ORAL)

Challenge in this revision petition is to the judgment of conviction and order of sentence dated December 24, 2012 passed by learned Judicial Magistrate Ist Class, Batala in a case bearing FIR No. 54 dated June 11, 2004 under Sections 452, 326, 324, 323 and 34 IPC registered at Police Station Ghuman, whereby petitioners have been convicted under Sections 326/34 IPC and sentenced to undergo RI for a period of three years each alongwith some other offences; besides to pay fine. The said judgment and order of sentence was affirmed by learned Additional Sessions Judge, Gurdaspur vide its judgment dated November 20, 2015.

2. Briefly stated the facts of the instant case are that on June 10, 2004 at about 8.30 PM, accused Kulwant Singh alongwith his sons and his wife while armed with deadly weapons entered in the house of Bachhan Singh-complainant. Kulwant Singh raised lalkara and said that you have given the evidence against him in respect of murder case and due to their evidence the Court convicted him, so today he would teach a proper lesson to the complainant and his family members. In the meantime Harvinder Singh gave reverse blow of datar which hit on the right side of the head of the complainant then Kulwant Singh gave chavi blow which hit on the left shoulder of the complainant then Gurwinder Singh made two chavi blows on the person of the complainant, then Jito made two dang blows on the person of the complainant which hit on the left shoulder and on the back of the complainant, then wife of the complainant Jasbir Kaur and son-in-law Darshan Singh came forward to escape the complainant from the clutches of the accused persons then accused Kulwant Singh gave a reverse chavi blow on Darshan Singh which hit on the left side of his head then Jito made a dang blow on the person of the complainant Darshan Singh which hit on his left arm, then Gurwinder Singh made a chavi blow on the wife of the complainant which hit on her left arm and then Jit Kaur made two dang blows on the wife of the complainant which hit on her back of left arm as well on left shoulder. Then complainant made a noise then accused persons ran away from the spot with their respective weapons. Accordingly, accused have committed the offence punishable under Sections 323, 324, 326, 452 and 34 IPC.

3. During investigation accused Gurwinder Singh declared proclaimed offender and challan was presented in his absence.

4. On presentation of challan, copies of challan as well as documents relied upon by the prosecution were supplied to the accused free costs as required under section 207 Cr.P.C.

5. Finding a prima facie case, accused was charge-sheeted on July 19, 2005 under Sections 452, 326, 324, 323 and 34 IPC by learned trial Magistrate. However, they did not plead guilty and claimed trial. Thereafter, accused Gurwinder Singh joined the investigation and charge was re-framed against the accused on January 07, 2012.

4. In order to prove its case prosecution examined as many as seven witnesses.

5. Incriminating circumstances appearing in the prosecution evidence were put to accused in their statements under Section 313 Cr.P.C. who denied the same, pleaded innocence and false implication. Accused also opted to lead evidence in their defence and examined Satnam Singh as DW-1, Balwant Singh as DW-2, Satpal as DW-3 and thereafter, they closed the defence evidence.

6. After hearing learned counsel for the parties and having gone through the material on record, accused were held guilty under Sections 452, 326, 323, 324 and 34 with Section 34 IPC. Accordingly, they were convicted and sentenced, as detailed above.

7. Appeal preferred by them also failed before the lower Appellate Court. At this backdrop of facts, instant revision petition has been preferred by them.

8. Here it would be pertinent to mention that at the time of issuance of notice of motion, petitioners did not challenge their conviction on merits and only confined their relief qua quantum of sentence. This Court has also

scrutinized the impugned judgments as well as the relevant documents/evidence and is of the considered view that there is no scope for any interference in impugned judgment(s) as far as the conviction of the petitioners is concerned. As such, the conviction of the petitioners is upheld.

9. As far as the quantum of sentence is concerned, learned counsel for the petitioners has submitted that petitioners are first offenders. No other case of similar nature is either pending or disposed of against the petitioners. They never misused the concession of bail during trial. They have already undergone more than 05 months, out of their total substantive sentences of three years. Accordingly, he prays that sentences imposed upon the petitioners be reduced to the period already undergone by them.

10. This Court has given an anxious thought to the submissions made by learned counsel for the petitioners and have gone through the record available on file.

11. As per custody certificates dated May 10, 2016, by now, Kulwant Singh has already undergone 08 months approximately; Harwinder Singh has already undergone almost 7 months; Jito has already undergone almost 06 months and Gurwinder Singh has already undergone almost 08 months, out of their total substantive sentences of three years. They are facing the protracted trial for the last about 11 years, since the date of registration of the FIR against them.

12. Taking into consideration the above narrated discussion as well as the fact that petitioners have not challenged their conviction on merits, order of sentence is modified to the extent that substantive sentence of 03 years awarded to petitioner Nos.1 to 3, under Section 326/34 IPC is reduced to 01 year each,

whereas, the substantive sentence of 03 years awarded to petitioner No.4, under Section 326/34 IPC is reduced to 02 years. The period already undergone by the petitioners be set off. There shall be no change in the fine clause.

13. With the aforesaid modification in the quantum of sentence, the revision petition stands dismissed.

MAY 11, 2016
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(JASPAL SINGH)
JUDGE