

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

**Criminal Revision No.4358 of 2015 (O&M)
Date of Decision: 06.04.2016**

Kuldeep Singh & another

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

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

Present:- Mr. Jagjit Singh, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA J.(Oral)

CRM-11342-2016:

Prayer in this application filed under Section 482 of the Code of Criminal Procedure, 1973 is for placing on record the MLR of Gurmail Singh and statement of PW-7 Dr. Rajan Bhatti as Annexures P1 and P2.

For the reasons given in the application, the same is allowed and documents Annexures P-1 and P-2 are ordered to be taken on record subject to all just exceptions.

Main Case:

Petitioners Kuldeep Singh @ Manak and Avtar Singh @ Tari have filed the instant revision petition challenging the judgment dated 24.7.2015 passed by learned Addl. Sessions Judge, Kapurthala, whereby though the appeal preferred by them against the judgment of conviction and order of sentence dated 11.6.2013 passed by Sub Divisional Judicial Magistrate, Sultanpur Lodhi has been disposed of by acquitting them of the charges under Sections 325/34 IPC, however, their conviction and sentence under Sections 323/326/34 IPC has been maintained.

Learned Sub Divisional Judicial Magistrate, Sultanpur Lodhi vide judgment dated 11.6.2013 had convicted the petitioners for offence under Sections 326/325/323 read with Section 34 IPC and sentenced them as under:-

1	Kuldip Singh	U/s 326 IPC U/s 34, 325 IPC U/s 34, 323 IPC	R.I. Two years R.I. one year R.I. six months	Fine Rs.100/- for all offences rateable distributed due to poverty
2	Avtar Singh	U/s 323 IPC U/s 34, 325 IPC U/s 34, 326 IPC	R.I.six months R.I. one year R.I. two years	Fine Rs.100/- for all offences rateable distributed

				due to poverty
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All the sentences were ordered to run concurrently and in default of payment of fine, the petitioners were further ordered to undergo rigorous imprisonment for three days..

As per the case of the prosecution, on 18.7.2009, Gurmail Singh along with Piara Singh suffered a statement to the effect that on 15.7.2009 at about 8-00 P.M., complainant Gurmail Singh along with Balbir Singh was going to operate his electric motors and when they reached near the house of Kuldip Singh @ Manak, Raj @ Pooja and Karma raised a lalkara to teach a lesson to the complainant. In the meantime, Kuldip Singh @ Manak was armed with *Datar*, Sarabjit Kaur @ Sabhi was armed with a *dang* and Avtar Singh @ Tari was armed with *gandasi* also reached the spot. Surjit Kaur mother of the complainant also came there being the Sarpanch of the village, upon which, Sarabjit Kaur gave a *dang* blow on the teeth of Surjit Kaur and when Gurmail Singh came forward to rescue his mother, Karma son of Bau pulled the complainant from his shirt. Kuldip Singh @ Manak gave a *datar* blow which landed on the finger of the left hand of the complainant. Naranjan Singh son of Arjan Singh, who was also attracted to the place of occurrence, tried to intervene. In the meantime, Avtar Singh son of Karma gave a *gandasi* blow which hit Balbir Singh on his head. Thereafter, all the accused fled away from the place of occurrence with their respective weapons.

Then Piara Singh father of the complainant removed them to Civil Hospital, Kapurthala. Accordingly, after recording the statement, the FIR was registered and accused were arrested. After completion of necessary investigation, challan was presented against the accused. Copies of the challan and other documents were supplied to the accused as required under Section 207 CrPC free of costs.

Finding a prima facie case against the petitioners-accused, charge under Sections 326/325/323/148/149 IPC was framed against them, to which they pleaded not guilty and claimed trial.

The prosecution examined eight witnesses and statement of accused, as required under Section 313 CrPC was recorded, in which all incriminating circumstances appeared against them were put to them but they denied the same and claimed their false implication in the instant case.

The trial Court after hearing learned counsel for the parties and appreciating the evidence on record, convicted the petitioners for offence under Sections 326/325/323 read with Section 34 IPC and sentenced them vide judgment of conviction and order of sentence dated 11.6.2013, as mentioned above.

Against the aforesaid judgment of conviction and order of sentence, the petitioners filed an appeal before learned Addl. Sessions Judge, Kapurthala. Learned Appellate Court disposed of the said appeal by acquitting the petitioners of the

charges under Sections 325/34 IPC, however, their conviction and sentence under Sections 323/326/34 IPC was maintained.

It is in the aforesaid circumstances, the petitioners have filed the present petition.

On 15.12.2015, this Court passed the following order:-

“Learned counsel for the petitioners, at the very outset, submits that keeping in view the totality of facts and circumstances of the case, he does not intend to press this petition on merits. He further submits that let the conviction of petitioners be upheld and the present petition may be considered for the limited purpose of reduction of sentence.

In view of the above, conviction of the petitioners is upheld. Let notice of motion be issued only qua quantum of sentence for 03.03.2016.

In view of aforesaid order dated 15.12.2015, learned counsel for the petitioners has confined his arguments only *qua* quantum of sentence. Learned counsel for the petitioners submitted that the sentence of the petitioners may be reduced to the period already undergone by them as they have already suffered the agony of protracted trial for more than 6 years since the registration of the FIR on 18.7.2009 and it should be a sufficient mitigating circumstance to treat them leniently. Moreover, as against the substantive sentence of maximum two years, they have been in custody for more than 9 to 10 months. Learned counsel further submitted that the petitioners are first

time offenders and they are not involved in any other case except the present one.

Learned State counsel has already filed custody certificate of the petitioners and does not dispute that as against the awarded maximum sentence of two years, the petitioners have been in custody for more than 9 to 10 months.

I have heard learned counsel for the parties and gone through the record of the case.

Reference may be made to judgment of this Court in the case of **Sohan Lal v. State of Punjab 1979 CLJ (Criminal) 113** wherein since the accused was first time offender and had undergone the sentence of 3½ months, his sentence was reduced to the period already undergone by him. Similarly, in the case of **Balwinder Singh v. State of Punjab CRR No.2574 fo 2012 decided on 31.10.2012** this Court has reduced the sentence of the accused therein under Sections 323, 325 and 326 IPC.

The custody certificate shows that the petitioners are not involved in any other case except the present one and they are in custody for about 9 to 10 months.

Considering the fact that the petitioners have suffered the protracted trial since the year 2009 and there is no previous conviction to their discredit, coupled with the fact that they have remained in custody for a period of more than 9 to 10 months, ends of justice would be met if their sentences are allowed to be reduced to one year.

In these circumstances, while upholding the judgments of conviction passed by the Courts below, the present revision petition is dismissed, however, the sentence awarded to the petitioners is reduced to one year. The petitioners shall be released only on completion of one years of sentence, if they are not found involved in any other case.

April 06, 2016
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(HARI PAL VERMA)
JUDGE