

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.4392 of 2015 (O&M)
Date of Decision: May 13, 2016

Sukhbir and another

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Arvind Bansal, Advocate
for the petitioners.

Mr.Himmat Singh, Deputy Advocate General, Haryana
for the respondent-State.

Ms.Alisha Soni, Advocate
for the complainant.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners Sukhbir and Kuldeep against respondent State of Haryana under Section 401 Cr.P.C. challenging the impugned judgment of conviction dated 08.04.2013 and order of sentence dated 10.04.2013 passed by learned Addl. Chief Judicial Magistrate, Kaithal, vide which the petitioners were convicted and sentenced to pay fine of ₹1000/- each and in default of payment of fine, to undergo rigorous imprisonment for a period of one month each under Section 323 read with Section 34 IPC and to undergo rigorous imprisonment for a period of two years and to pay a fine of ₹2000/- and in default of payment of fine, to

undergo rigorous imprisonment for a period of two months each under Section 325 read with Section 34 IPC and also challenging the judgment dated 15.09.2015 passed by learned Addl. Sessions Judge, Kaithal, vide which appeal filed by petitioners was dismissed.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Notice of motion was issued to State of Haryana only qua quantum of sentence.

Learned State counsel has appeared. Learned counsel for the complainant has also appeared and filed Vakalatnama and affidavit of complainant regarding compromise, which are taken on record.

From the record, I find that challan was presented against the petitioner in case FIR No.76 dated 05.09.2012 under Sections 323, 325 and 34 IPC. The brief facts of the case as noted down in the judgment passed by learned ACJM, Kaithal, are as under:-

“On 04.09.2012 at about 7:05 P.M., a telephonic message was received from Police Post, Civil Hospital, Kaithal as regards admission of Kuldeep son of Babu Ram, Caste Ror, resident of Village Sanch in injured condition in Civil Hospital, Kaithal. On this, ASI Bilasa Ram along with constable Rajesh reached General Hospital, Kaithal and obtained ruqa and MLR pertaining to injured Kuldeep. He obtained opinion of the Medical Officer as to fitness of injured Kuldeep and thereafter, recorded his statement Ex.PW4/A to the effect that he was an agriculturist by profession. On 02.08.2012 at about 8:00 P.M., he was present near Peer Baba at Village Kaul in wait of conveyance in order to go to village Pabnawa to meet his sister Neelam there. He asked a Baba (Sadhu) standing there as to the means of transport by which, he could reached Pabnawa. He relied that he did not know

anything about that and asked the complainant as to who he was. Complainant relied that he had only made enquiry from him. Two/three young boys were also with aforesaid Baba. Complainant thereafter, started for village Pabnawa on foot. He had barely walked about half kilometer. In the meantime, a motor cycle came from behind on which Kuldeep son of Multan alias Pala and Sukhbir son of unknown, residents of village Kaul were riding. Kuldeep, was wielding wooden Danda, Sukhbir caught hold of complainant and Kuldeep gave Danda blow on both legs of complainant. Baba also reached there who was carrying a wooden Sotta and gave injuries on both hands, mouth, left ear and left eye of the complainant. He became unconscious and kept lying on the road. Next day at about 4:00 A.M, he regained consciousness. He was carrying a sum of Rs.4,500/- cash in his purse and was also wearing a gold chain but did not find the same. In the morning, some passerby telephoned his brother Randeep and called him at the spot whereon complainant Kuldeep was taken home. On 03.09.2012, he first of all was taken to Karnal and thereafter, to Kaul where after giving him first aid, he was removed to Civil Hospital, Kaithal. A prayer was made for taking legal action against the culprits.”

Learned ACJM, Kaithal, after appreciating the evidence, convicted and sentenced the petitioners as stated above. Separate appeals were filed by the petitioners and the same were dismissed by learned Addl. Sessions Judge, Kaithal, vide common judgment dated 15.09.2015.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioners contended that petitioners are poor persons, first offenders and only bread earners of the family and they are suffering from criminal proceedings since 2012 and furthermore, parties have already effected a compromise.

Learned counsel for the complainant filed the affidavit of the complainant and stated that the complainant has no objection if the sentenced of the petitioners is reduced and admitted the factum of compromise.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and the fact that petitioners are first offenders, poor persons and only bread earners of the family and in view of the fact the petitioners are suffering from long protracted criminal proceedings since 2012, the sentence imposed of the petitioners is reduced to the sentence already undergone by them. Petitioners Sukhbir and Kuldeep, who are in custody, be released forthwith, if their custody is not required in connection with any other case, subject to payment of fine, if already not paid.

Resultantly, the present revision petition stands partly allowed.

May 13, 2016
Vgulati

(INDERJIT SINGH)
JUDGE