

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

CRR-3510-2016 (O&M)

Date of decision : 26.10.2016

Krishan and others

...Petitioners

Versus

State of Haryana

...Respondent

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vimal Singh, Advocate
for the petitioners.

Mr. Neeraj Poswal, AAG, Haryana.

Mr. Sandeep Lather, Advocate for complainant.

JITENDRA CHAUHAN, J.

CRM-33619-2016

Application is allowed as prayed for.

Compromise Annexure A-1 is taken on record subject to
all just exceptions.

Main Case

The present revision petition is directed against the judgement of conviction dated 29.08.2014 and order on quantum of sentence dated 30.08.2014 passed by learned Judicial Magistrate First Class, Kaithal vide which the petitioners were convicted under Sections 148, 323, 324, 325 and 506 read with Section 149 of Indian Penal Code (in short 'IPC'); and the judgment dated 24.08.2016 passed by learned Sessions Judge, Kaithal vide which the appeal filed by the petitioner was dismissed.

The brief facts of the present case as noticed in the

judgment passed by trial Court are as under:-

“On 08.07.2009 a telephonic message has been received in the P.S. Concerned regarding fight in village Sega. Upon which ASI Shiv Kumar, HC Chander Parkash and EHC Ram Mehar reached to village Sega where they got to know that Phoolpuri etc. are admitted in GH.Kaithal due to injuries. After this ASI Shiv Kumar along with his fellow official reached to GH, Kaithal and after obtaining opinion of the doctor recorded the statement of Dharampuri. As per his version on 7.7.2009 at around 10.00PM his brother Rajender Puri was sitting outside his house and his children were watching T.V inside the house. At this accused Krishan his neighbor came there and told to Rajender to switch off the T.V. At this an altercation begun between his brother Rajender and accused Krishan. In the meantime accused Krishan, Khazana, Ram Niwas and Ram Kumar brought gandasi and Rajkumar, Jai Kumar, Panna Lal and Sunil brought Lathi. Accused Khazana said to all of them that lets teach a lesson to Phoolpuri and his sons for fighting with us and thereafter Krishan hit Rajender puri with gandasi at this forehead and his chest, Nikka hit Rajender with Lathi at this left hand, Ram Niwas hit Rajender with lathi at his right hand. Krishan hit Dharampuri with gandasi at his left hand Ramkumar hit him with gandasi at the back side of his head and also at the front of his head. Ram Niwas and Sunil hit Dharampuri with lathi at his right hand. Krishan hit Mahender with gandasi at his front, Raj Kumar also hit him with gandasi and likewise other accused also caused injuries to Mahender, Suresh and Sukho Devi. After

hearing the noise of the alleged fight Sajjan, Ramdhari and Joginder sons of Phoolpuri came at the place of occurrence and rescued the injured from the clutches of the accused. After this accused fled away from the place of occurrence along with their weapons and threatened the victims to kill them next time. At the statement of Dharampuri a tehrir was sent to the police station upon which a formal FIR was registered. Investigation was carried out. Site plan was prepared. On 9.7.2009 accused Krishan, Ramkumar, Rajkumar, Jai Kumar, Ram Niwas, Panna Lal were arrested as per law and weapons used by them in the alleged offence were recovered from them. On 10.7.2009 accused Khazana was arrested. All the accused were produced before the court from where they were released on bail. During investigation accused Sunil was found innocent. During investigation MLR of accused persons was also received upon which opinion of the doctor was sought and as per his opinion the possibility of injury of accused Raj Kumar by friendly hand cannot be ruled out.”

Challan was filed against all the accused and copy of the same was supplied to them under Section 207 Cr.P.C free of cost. Charges under Sections 148, 323, 324, 325 and 506 read with Section 149 of IPC were framed against all the accused to which they did not plead guilty and claimed trial.

In order to prove their case, the prosecution examined PW-1 Phoolpuri, PW-2 complainant Dharampuri, PW-3 Sukhodevi, PW-4 Mahender Puri, PW-5 Rajender, PW-6 Suresh Kumar, PW-7 Dr.Yogesh

Garg, PW-8 ASI Shiv Kumar, PW-9 HC Raghbir Singh, PW-10 Inspector Ramphal Goyat, PW-11 ESI Baljeet Singh, PW-12 Dr. Mohit Mahipal and PW-13 Raja Ram, Medical Record Clerk, PGIMS Rohtak who was a formal witness.

After closure of the prosecution evidence, the statements of the all the accused were recorded under Section 313 Cr.P.C in which all the incriminating materials available in the statements of the witnesses of the prosecution were put to the accused to which they denied and claimed to lead evidence in their defence.

In their defence, they have relied upon MLR EX.D2 of accused Rajkumar, EX.D3 of accused Khazana, MLR Ex.D4 of accused Vijay Kumar. No other evidence has been adduced by accused in their defence and after their separate statement, defence evidence was closed.

After appraisal of the evidence, the learned trial Court convicted and sentenced the accused as under:-

Offence	Sentence	Fine (Rs.)
148 IPC	-	500/-each
323 IPC	Six months rigorous imprisonment	500/-each
324 IPC	Six months rigorous imprisonment	500/-each
325 IPC	One year rigorous imprisonment	2000/-each
506 IPC	-	500/-each

Feeling dis-satisfied, all the accused preferred appeal before the Sessions Judge, Kaithal. Vide judgement dated 24.08.2016, the appeal was dismissed.

Still feeling dis-satisfied, the petitioners have challenged both the aforesaid judgments before this Court.

At the outset, learned counsel for the petitioners states that he does not challenge the judgment of conviction, however, he prays that a lenient view may be taken as regards the quantum of sentence imposed by the trial Court.

Even though the petitioners do not challenge the judgment of conviction, this Court has re-scanned the evidence and finds that judgments are in conformity with law.

The factum of occurrence was proved only by PW-2, complainant-Dharam Puri by stating that accused, seven in number were armed with gandasis and lathis; had formed an unlawful assembly and caused hurt to PWs Rajender Puri, Mahender, Phool Puri, Suresh, Sukho Devi and Dharam Puri. He has not only given the names of each one of the accused persons but has also identified them in the Court. All the witnesses were cross-examined at length but nothing could be elicited from their testimony so as to discard the case of the prosecution. The prosecution case is fully proved by the statements of the prosecution. There is no flaw in the judgment of conviction. This being so, this Court finds that the judgements of conviction have been rightly passed. As such, the conviction of the petitioners for the offences punishable under Sections 148, 323, 324, 325 and 506 read with Section 149 IPC is affirmed.

However, there is substance in the arguments of learned counsel for the petitioners so far as quantum of sentence is concerned.

As per the custody certificate, each petitioner has already undergone actual sentence of 02 months and 01 day as on date out of substantive sentence of one year. The petitioners are the sole bread winners of their respective families and the occurrence took place in the year 2009. This Court feels that ends of justice would be met if the sentence of the petitioners is reduced from one year to the period already undergone by them. Keeping in view the fact that the parties have entered into compromise and injuries were also caused to the petitioners, the petitioners shall pay a sum of Rs.10,000/-each as costs of litigation to the State. The petitioners are stated to be in custody, be released forthwith, in case they are not required in any other case.

October 26, 2016

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**(JITENDRA CHAUHAN)
JUDGE**

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No