

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

**CRR-3595-2016 (O&M)  
Date of decision-17.12.2016**

**Baljeet Kumar and others  
Vs.**

**...Petitioners**

**State of Punjab**

**...Respondent**

**CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. Akshay Rana, Advocate for the petitioners.

Mr. Luvinder Sofat, AAG, Punjab.

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**JITENDRA CHAUHAN, J. (Oral)**

By filing the present criminal revision, the petitioners have assailed the judgment dated 02.09.2016, vide which, learned Addl. Sessions Judge, Jalandhar upheld the judgment dated 09.07.2015, passed by learned Sub Divisional Judicial Magistrate, Phillaur whereby, the petitioners were convicted under Sections 186, 323, 341, 353 and 379 read with Section 34 of the Indian Penal Code (in short 'IPC') and sentenced to undergo rigorous imprisonment for a period of six months with fine of Rs.1000/- each.

The facts of the case as set out from the judgment of trial Court are reproduced below:-

*“This case was registered against the present appellants-accused on the basis of the statement of Pal Singh son of Kishan Singh, resident of Chander Bhan, P.S.Purana Shalla, District Gurdaspur, working as driver in the New Dashmesh Transport, Over-lock Road Ludhiana, recorded by Surjit Singh, ASI of P.S.Phillaur at 12:45 A.M on 29.08.2008. He stated that on that day, he was driving the truck bearing registration No.PB-10-T-9031 from Ludhiana to Jalandhar with a consignment*

*of iron-sheets. A Tata 909 Tempo bearing registration No. HP-67-8166 was also going with a consignment of iron-sheets from Ludhiana to Jalandhar. The said vehicle was going ahead of the vehicle of the complainant. On reaching the Bus Stand of Phillaur, suddenly the Tempo stopped on developing a mechanical fault. The complainant used his truck to push the Tempo and to move it to the road berm. At that time, three men approached the complainant. Among them, was a person who asked the complainant as to how he had parked his truck at the spot. The complainant claims that he told him that the Tempo was out of order and therefore, it had to stop there perforce. The said person told the complainant that he is Baljeet Comrade of Phillaur and he does every act according to his wish. The said Baljeet Comrade hit a blow with his dang on the left side of the head of the complainant. The second person named Joga gave a blow with his danda on the left ankle of the complainant. The third person named Honey caught the complainant by his shirt and thereby Baljeet Comrade forcibly took out the currency note of Rs.500/- from the right pocket of the Pajama of the complainant. In the mean time, Gian Chand, driver of the Tempo intervened and tried to save the complainant. The accused however, threatened him. So, he was forced to withdraw. Thereafter, the complainant raised cries for help. On hearing the cries, some police officials reached the spot. They tried to save the complainant from the clutches of the accused. The accused Baljeet Comrade shouted to the said police official that he had dealt with many police officials like him and thereafter, he held the police official, who was in uniform, by the collar of his shirt. He tore his uniform. Thereafter, some more police officials reached the spot. All the three accused were arrested. In the mean time, owner of the truck namely Pardeep Kumar also reached the spot. The complainant was thereafter medically examined at Civil Hospital, Phillaur. Later, he approached the police and got his statement recorded.*

*On the basis of the statement of the complainant and the injuries shown in the MLR, FIR was recorded. Thereafter, the I.O proceeded to the spot. Site plan was prepared. Statements of the witnesses were recorded. On completion of investigation, challan against the accused was presented in the court.”*

On the basis of statement of complainant, Pal Singh, FIR was registered against the accused persons. After completion of investigation, challan was filed before the Court.

The accused were charge sheeted under Sections 186, 353, 341, 323 and 379 read with Section 34 of IPC, to which they pleaded not guilty and claimed trial.

In support of the case of prosecution, it examined PW-1 ASI Surjit Singh Investigating Officer, PW-2 HC Paramjit Singh, PW-3 Gian Chand, PW-4 Dr. Neeraj Sodhi, Medical Officer, PW-5 Pardeep Kumar and PW-6 Charanjit Singh.

The statements of the accused under Section 313 Cr.P.C., were recorded. They pleaded innocence and alleged false implication. However, they did not lead any evidence in their defence. After hearing the Addl. Public Prosecutor, the Counsel for the accused, and after going through the evidence, on record, the trial Court convicted and sentenced the accused/petitioners, as stated hereinbefore.

The appeal filed by the petitioners was also dismissed, vide impugned judgment dated 02.09.2016. Feeling aggrieved against the judgments of both the Courts below, the instant revision was filed by the accused/petitioners.

The learned counsel for the petitioners does not press the

revision petition on its merits and submits that in view of the fact that the petitioners are the sole bread earners of their families, who have suffered a protracted trial since the year 2008 and have never misused the concession of bail during the trial, a lenient view in the matter of sentence be taken by this Court. As per custody certificates dated 16.12.2016, the petitioner No.1 has undergone 03 months and 14 days, petitioner No.2 has undergone 03 months and 18 days and petitioner No.3 has undergone 03 months and 18 days, out of substantive sentence of six months.

On the other hand, the learned State counsel opposes the prayer of petitioners/accused and supported the judgment of conviction and order of sentence passed by the trial Court.

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

The prosecution case is fully proved by the statements of the prosecution witnesses. There is no flaw in the unassailed judgments of conviction, therefore, the judgments passed by both the Courts below are affirmed. However, there is substance in the argument of the learned counsel for the petitioners with regard to quantum of sentence.

The petitioners have suffered the agony of the protracted trial since 2008. Moreover, being the sole bread winners of their families, they are saddled with the responsibility of children of marriageable age and old parents which in the opinion of this Court are the mitigating circumstances. Accordingly, the prayer made with regard to quantum of sentence of the petitioners is accepted. The sentence awarded to the petitioners is ordered to be reduced from six months to the period already undergone by them in this case subject to payment a sum of ₹25,000/- each (i.e. total ₹75,000/-)

towards costs of litigation within a period of three months from today. It is made clear that if the amount is not paid within the stipulated period, the present revision petition shall be deemed to be dismissed without any notice. They be released forthwith, if not required in any other case.

Ordered accordingly.

(JITENDRA CHAUHAN)  
JUDGE

December 17, 2016  
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| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |