

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 5018 of 2015
Date of decision : 02.03.2016

Gurmeet Singh & anr.Petitioners

V/s

State of Punjab & anr.Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vipin Mahajan, Advocate for the petitioners.
Ms. Rajni Gupta, Addl. A.G. Punjab.
Mr. Sandeep Arora, Advocate for respondent no. 2.

RAJAN GUPTA J.

Petitioners have been convicted by Additional Chief
Judicial Magistrate, Gurdaspur under sections 326, 325, 324, 323
read with section 34 IPC and was sentenced to undergo
imprisonment as under:-

Offence	Sentence
326 IPC	To undergo R.I. for two years and to pay fine of ₹1,000/- and in default thereof to further undergo R.I. for three months.
325/34 IPC	To undergo R.I. for a period of 1½ years and to pay fine of ₹500/- and in default thereof to further undergo R.I. for one month.
324/34 IPC	To undergo R.I. for a period of 1 year and to pay fine of ₹500/- and in default thereof to further undergo R.I. for one month.
323 IPC	To undergo R.I. for a period of three months and to pay fine of ₹200/- and in default thereof to further undergo R.I. for 10 days.

All the sentences are ordered to run concurrently.

Petitioners preferred appeal before Additional Sessions Judge, Gurdaspur against the judgment of their conviction/sentence. Vide judgment dated 09.12.2015, same was modified and petitioners were acquitted of the charges under sections 326, 325, 34 IPC. However, conviction and sentence imposed upon them qua sections 324, 323, 34 IPC was maintained. Except with this modification in the quantum of sentence, the appeal was dismissed. Feeling aggrieved against the judgments of both the courts below, petitioners have approached this court through the instant Criminal Revision.

Learned counsel for the petitioners at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioners is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 30.10.2005 at about 10:45 A.M., complainant Makhan Singh and his father Mohinder Singh were irrigating their fields from their tubewell. Accused (petitioners herein) were also present there. Gurmeet Singh (petitioner no. 1 herein) was armed with datar while Mohan Singh (petitioner no. 2 herein) was armed with dang. They raised lalkara to teach lesson to complainant for

putting water in their fields. Accused Gurmeet Singh gave datar blow to complainant which hit him on the upper portion of left ear followed by another blow which hit him on his forehead near left eyebrow. While accused Mohan Singh also gave a blow with stick which hit him on his left shoulder. Thereafter, both the accused inflicted various injuries on other parts of body of the complainant. On raising alarm, persons working in the nearby fields reached the spot and save the complainant. However, accused fled from the scene of occurrence with their respective weapons. Later, complainant was admitted to Civil hospital, Gurdaspur. On this statement, FIR was registered by the police. After completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 326, 325, 324, 323 read with section 34 IPC charge was framed against the accused/petitioners, to which they pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as five witnesses. In after-charge evidence, accused further cross examined three witnesses and thereafter post-charge evidence was closed by complainant.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to them. They refuted the incriminating circumstances and pleaded false implication. The accused, however, did not produce any evidence in their defence.

On the basis of the evidence on record, learned trial court held the petitioners guilty of the charges under sections 326,

325, 324, 323 read with section 34 IPC and sentenced them as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Sangrur except in the modification of sentence as already indicated above.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioners guilty of the charge framed against them. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioners is, thus, affirmed.

Even counsel for the petitioners, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioners are poor persons and only bread winner of their family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has placed on record affidavits of Davinder Kumar Sidhu, Superintendent Central Jail, Gurdaspur, according to which petitioners had undergone actual custody of 02 months and 29 days including remission as on 01.03.2016.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioners shall be reduced to three months. But the petitioners are burdened with a fine of ₹20,000/- each to be paid as compensation to the complainant. Ordered accordingly.

The amount of fine shall be deposited within three months from the date of receipt of certified copy of this order. However, in case aforesaid fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

March 02, 2016

Ajay

(RAJAN GUPTA)
JUDGE