

242 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 550 of 2016 (O&M)
DECIDED ON: APRIL 11, 2016

RAM AVTAR & ORS

.....PETITIONERS

VERSUS

STATE OF HARYANA AND ANR.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH.

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

Present: Mr. Sunil Panwar, Advocate
for the petitioners.

Mr. S.S. Pannu, DAG, Haryana.

Mr. Ramender Chauhan, Advocate
for respondent No.2.

JASPAL SINGH, J

1. By virtue of this revision petition, petitioner No.3-Golu @ Kishan has challenged the judgment dated January 29, 2016 passed by learned Additional Sessions Judge, Gurgaon, whereby judgment of conviction and order of sentence dated August 02/03, 2008 passed by Sub Divisional Judicial Magistrate, Pataudi, in case bearing FIR No.189 dated October 24, 2007 under Sections 323, 325, 452 read with Section 34 IPC, Police Station, Pataudi qua

petitioner No.3 has been upheld. Whereas, Ram Avtar and Kamlesh were released on probation of good conduct by lower Appellate Court.

3. It has been *inter-alia* contended by learned counsel for the petitioner No.3 that since a compromise has been arrived at in between the parties, he does not challenge the conviction on merits and only confines his relief qua quantum of sentence. He further submits that petitioner No.3 is a poor person and is a sole bread-winner. He is not a previous convict. He has already undergone the incarceration for a period of more than 02 months out of total substantive sentence of three years. He is neither required nor involved in any other case, therefore, his substantive sentence may be reduced to the period already undergone.

4. A perusal of order dated April 4, 2016 reveals that injured Gora Devi/wife of the deceased who was present in person categorically stated that a compromise has been effected in between the parties and she has no objection, if the sentence of the petitioner No.3 is reduced.

5. Learned counsel for the State as well as counsel for the complainant does not dispute the factual position as stated above.

6. Since, learned counsel for the petitioner No.3 has not disputed the order of conviction passed by learned trial Court and upheld by First Appellate Court, therefore, this Court does not intend to go in detail with regard to the factual aspects of the case. This Court has also scrutinized the impugned judgments as well as the relevant documents/evidence and is of the considered view that there is no scope for any interference in impugned judgment(s) as far as the conviction of the petitioner No.3 is concerned. As such, the conviction of the petitioner No.3 is upheld.

6. As far as quantum of sentence is concerned, there are mitigating circumstances to take a lenient view in the matter of sentence awarded by the trial court and upheld by the lower appellate court. Apart from the fact that petitioner No.3 is facing the agony of protracted trial since 2007 and is a poor person. However, there appears to be a substance in the submissions of learned counsel for the petitioner No.3 that petitioner No.3 is a first offender; he is the sole bread winner for his family; out of rigorous imprisonment for three years, the petitioner No.3 has suffered incarceration for more than two months and that during trial and pendency of appeal he never misuse the concession of bail/remission, which shows that he is in process of improving himself, therefore, some concession in substantive sentence can be extended to him.

7. Moreover, parties to the *lis* have buried their hatchet though at a penultimate stage i.e. appellate stage. In case compromise is accepted, it would certainly create harmonious relationship in between the parties and would result into removal of bitterness or ill-will existing between the parties since long. Thus, this Court is of the view that once a matter has been compromised by the parties, no useful purpose would be served by continuing the proceedings and to decide the matter on merits. Rather it would be nothing but an abuse of process of law as well as the wastage of time of the Court as well as the parties. This court is also of the considered view that a chance be given to the petitioner No.3 to reform & improve himself; to become a good citizen; and to lead a peaceful & harmonious life.

8. Taking into consideration the above narrated discussion as well as the fact that petitioner No.3 has not challenged his conviction on merits, while affirming his conviction, the order of sentence is modified to the extent to the

period already undergone by him with no change in the fine clause.

9. With the aforesaid modification in the quantum of sentence, the revision petition stands dismissed.

10. In view of order passed in the main revision petition, CRM No. 4584 of 2016 has become infructuous and as such, is dismissed.

APRIL 11, 2016
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(JASPAL SINGH)
JUDGE