

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

(1) CRR No. 619 of 2016 (O&M)
Date of Decision: 26.09.2016.

Surinder Singh and others
..... Petitioners
Versus
State of Punjab
..... Respondent

(2) CRR No. 620 of 2016 (O&M)
Date of Decision: 26.09.2016.

Dalbir Singh
..... Petitioner
Versus
State of Punjab
..... Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Krishan Singh, Advocate
for the petitioners in both revision petitions.

Mr. Luvinder Sofat, AAG Punjab.

JITENDRA CHAUHAN, J.

This judgment shall dispose of afore-mentioned two revision petitions arising out of the common judgment dated 18.12.2015, passed by Additional Sessions Judge, Patiala vide which two separate appeals filed by the petitioners were dismissed and the judgment and order dated 07.10.2014, passed by Judicial Magistrate First Class, Patiala, convicting the petitioners under Sections 323, 325, 341 and 506 read

with Section 34 IPC were upheld.

The brief facts of the case as noticed in the judgment passed by Additional Sessions Judge are as under:-

“The brief facts giving rise to the present appeal are that on dated 26.10.2010 ASI Balwant Singh had received a telephonic message from EMO, CHC Dudhan Sadhan to the effect regarding admission of Sahib Singh, Ranjit Singh, Santokh Singh, Harwinder Singh and Chanan Singh residents of village Fransewala in the said hospital and thereafter, they were referred to Rajindra hospital Patiala. It has been further alleged that thereafter, ASI Balwant Singh alongwith other police officials Rajindra Hospital, Patiala and after obtaining the copies of the MLR and the opinion of the concerned doctor regarding fitness of injured to make the statements, he recorded the statement of injured/complainant Sahib Singh, who stated that on 25.10.2010 at about 2 pm, he was working in his fields as the combine harvester was running in his fields, alongwith Ranjit Singh, Santokh Singh and Sandeep Singh. It has been further alleged that at that time, when they were harvesting the paddy crop in their fields, Surinder Singh @ Mansa armed with Gandasi, Chanan Singh, Harwinder Singh and Dalbir Singh armed with Dangs, came from the side of 3 village Fransewala and raised a lalkara that they will teach the lesson for harvesting

their paddy crop and in the meantime, Surinder Singh gave a Gandasi blow on his head, Chanan Singh and Harwinder Singh gave Dang blows to him. It has been further alleged that when Ranjit Singh came forward to save Sahib Singh, Surinder Singh gave a Gandasi blow on his head and other accused persons also gave beatings to him with Dangs. It has been further alleged that when Santokh Singh tried to save them, then Chanan Singh and Harvinder Singh gave beatings to him. When they raised hue and cry, all the aforesaid accused persons fled away from the spot with their respective weapons. On the basis of the aforesaid statement the present case was registered against the accused persons.”

The copies of the documents as envisaged under Section 207 Cr.P.C were supplied to the accused free of cost. Charges under Sections 323, 325, 341 and 506 read with Section 34 IPC were framed against the accused to which the accused did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined Dr. Samson as PW-1, Sahib Singh, complainant as PW-2, Ranjit Singh, injured as PW-3, Sandeep Singh, injured as PW-4, SI Balwant Singh IO as PW-5, Dr. Varinder Verma as PW-6, Bikramjit Singh, Sr. Assistant CRO Rajindra Hospital, Patiala as PW-7, HC Jiwan Singh as PW-8, Dr. Parminder Viridi as PW-9, Dr. Ramandeep Singh as PW-10 and Dr.

Vikas Chander as PW-11 and thereafter the evidence of the prosecution was closed by order.

The statements of the accused were recorded under Section 313 Cr.P.C in which all the incriminating circumstances/material appearing in the prosecution evidence were put to the accused to which the accused denied and pleaded false implication. It was stated by the accused that the complainant party gave them injuries on their person and entered in their field inspite of the fact that there was a stay order in their favour. In fact the complainant party did not suffer any injury from them. The injuries shown on the person of the complainant are self inflicted.

In defence evidence, Sukhwinder Singh was examined as DW-1.

After appraisal of evidence, the learned trial Court, vide judgment and order dated 07.10.2014, convicted and sentenced the accused as under:-

Offence	Sentence	Fine	In default
341 IPC	RI for one month		
325 IPC	RI for one year	Rs.1000/-	SI for one week
323 IPC	RI for 6 months		
506 IPC	RI for 6 months		

However, all the substantive sentences were ordered to run concurrently.

Feeling dis-satisfied, the accused preferred two separate appeals before Additional Sessions Judge, Patiala which were dismissed

vide common judgment dated 18.12.2015.

The judgment and order dated 07.10.2014 passed by the trial Court and the judgment dated 18.12.2015, passed by the lower appellate Court have been assailed in the present revision petitions.

CRR No. 619 of 2016 has been filed by accused-petitioner, Surinder Singh, Chanan Singh and Harvinder Singh whereas, CRR No. 620 of 2016 has been filed by accused-petitioner, Dalbir Singh.

It is contended by the learned counsel for the petitioners that the prosecution has failed to prove its case against the accused. A civil litigation was pending between the parties. In order to pressurize the petitioners, the present false FIR has been registered against them. During the scuffle, the petitioners also received injuries which remain unexplained. In fact, the complainant party was aggressor.

On the other hand, the learned State counsel states that the Courts below have rightly convicted and sentenced the accused. In support of the assertion made by the petitioners, no evidence had been led by them before the trial Court.

I have heard the learned counsel for the parties and have gone through the case file.

The first argument raised by the learned counsel for the petitioners is to the effect that the accused also suffered injuries during the scuffle and the factum of injuries having remained unexplained goes a long way to create dent in the case of the prosecution. However, the

Court finds that the argument lacks in substance. There is not even an

iota of evidence led by the accused that any injury was suffered by them in the scuffle. Neither the treating doctor nor any bed head ticket was produced on record by the accused. For the injuries allegedly sustained by the accused, no complaint whatsoever was ever filed by them. Therefore, this Court is of the opinion that the assertion raised by the learned counsel for the petitioners remains unsubstantiated.

As regards the second contention i.e. the motive to falsely implicate the accused, this Court finds that though, admittedly, civil litigation was pending between the parties, yet the same can also be said to be the motive for the accused to inflict injuries upon the complainant and the injured persons. Further, the testimonies of Sahib Singh, PW-2, complainant/injured and Ranjit Singh, PW-3 remain unshaken. Both the witnesses have deposed that petitioner/accused Surinder Singh armed with Gandasi had inflicted a Gandasi blow on the head of PW2 Sahib Singh, complainant and another Gandasi blow on the head of PW3 Ranjit Singh. They had further testified that the petitioner/accused Chanan Singh armed with Dang had also inflicted a Dang blow on the right elbow and right little finger of PW2 Sahib Singh and had also inflicted another Dang blow on the left arm of Santokh Singh, his brother in law. Accused Harvinder Singh, who was armed with Dang had given a Dang blow on the left shoulder of aforesaid Santokh Singh and another Dang blow on the back side of left shoulder of PW2 Sahib Singh. They had further testified that another accused/petitioner Dalbir Singh, who was armed with Dang, had also given a Dang blow on the

back of neck of PW3 Ranjit Singh. Before inflicting the aforesaid injuries upon the respective persons of PW2 Sahib Singh, PW3 Ranjit Singh and aforesaid Santokh Singh, all the accused had come to the place of occurrence on 25.10.2010 at about 2 pm, when PW2 Sahib Singh, complainant along with PW3 Ranjit Singh, Santokh Singh and Sandeep Singh, had been working in his fields and was harvesting the paddy crop in their two bighas of land with combine harvester had raised lalkaras to the effect that they would teach them a lesson for harvesting their paddy crop. Both the PWs were cross-examined at length but nothing could be elicited from their testimonies which would shake their credit. Not only that, the prosecution had examined PW-11 Dr. Vikas Chander who proved injuries on the person of Ranjit Singh, Sahib Singh and Santokh Singh. In view of the cogent and clinching evidence, both the contentions raised by the learned counsel for the petitioners are rejected.

The judgments of conviction passed by the Courts below are upheld.

Now reverting to the quantum of sentence, the learned counsel for the petitioners contends that the petitioners have been facing the agony of protracted criminal proceedings since 2010. They are the sole bread earners of their respective families. Apart from the present case, no other case is pending against the petitioners. Lastly, it is contended that out of the substantive sentence of one year, the petitioners have undergone sentence of 9 months and 24 days including

remissions as on date.

Keeping in view the afore-mentioned mitigating circumstances and the fact that the petitioners have undergone sentence of 9 months and 24 days out of the substantive sentence of one year, this Court feels that it would be in the interest of justice if the sentence of the petitioners is reduced from one year to the period already undergone by them. It is ordered accordingly. The petitioners are in custody. They be released forthwith, if not required in any other case.

Both the revision petitions are allowed partly in the manner indicated above.

26.09.2016
SN

(JITENDRA CHAUHAN)
JUDGE

Whether Speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No