

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

(1)

CRR No.711 of 2016 (O&M)

Dalbir Singh alias Gora

...Petitioner

VERSUS

State of Punjab

...Respondent

(2)

CRR No.941 of 2016 (O&M)

Ashok Singh alias Soka

...Petitioner

VERSUS

State of Punjab

...Respondent

Date of Decision: October 26, 2016

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.S.K.Chaudhary, Advocate
for the petitioner (in CRR No.711 of 2016).

Mr.Rakesh Kumar, Advocate
for the petitioner (in CRR No.941 of 2016).

Ms.Shivali, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

This order shall dispose of both the above-mentioned connected revisions as the point for determination in both the revisions is the same.

The present revisions have been filed by the petitioners Dalbir Singh alias Gora and Ashok Singh alias Soka against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 09.04.2013 passed by learned Judicial Magistrate Ist Class,

Batala, vide which the petitioner Ashok Singh @ Soka was convicted under

Section 326 IPC and petitioner Dalbir Singh @ Gora was convicted under Section 326/34 IPC and were sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹1000/- and in default of payment, to undergo rigorous imprisonment for a period of one month each and further petitioner Ashok Singh @ Soka was convicted under Section 323/34 IPC and petitioner Dalbir Singh @ Gora was convicted under Section 323 IPC and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month each and they were also convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹500/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month each under Section 379 IPC and also challenging the judgment dated 10.12.2015 passed by learned Addl. Sessions Judge (A), Gurdaspur, vide which appeal filed by petitioners was dismissed. All the sentences were ordered to run concurrently.

At the time of preliminary hearing, learned counsel for the petitioners did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued in both the petitions only qua quantum of sentence. Learned State counsel appeared and contested the petition.

From the record, I find that the challan was presented against petitioners in case FIR No.16 dated 23.02.2007. The brief facts of the case

under:-

“2 The criminal justice system in this case was set into motion on the statement of Shaukat Ali son of Mohammad Yusuf, Resident of Marri Buchian, who stated that he (complainant) was resident of above said address and doing the labour work. That he had taken four killa of land on mortgage from Sewa Singh, Sarpanch of village Marri Buchian and he (complainant) had sown the crop in it. That on 21.02.2007 at about 2.30 PM he (complainant) alongwith his son Hasanbir were loading the Grass in the Rehara after harvesting the same, in the mean while Ashok Singh alias Shokka son of Madan Lal, Resident of Marri Buchian armed with gandasi, Dalbir Singh @ Goga son of Sohan Singh, Resident of Marri Buchian armed with saria (iron rod) along with some unidentified person, who were empty handed came there and asked that the land belongs to them and why they had cut the Grass and he (complainant) replied that it was belonged to him and he had sown the said Grass in the land and they cannot stopped him. That Dalbir Singh raised lalkara to teach a lesson for cutting the Grass and Ashok Singh gave two blows with gandasi, which hit on his (complainant) left elbow and Dalbir Singh gave saria blow, which hit on left and right side of head, middle finger of right hand, on right wrist, on right shoulder, right side of back and then Ashok Singh gave gandasi blow which hit on his right wrist, left bicep, upper side of right leg. That his (complainant) son came forward to rescue him and accused also caused injuries to him. That he (complainant) raised hue and cry, which attracted Jamaldip son of Kashamdin, Masoom Ali @ Kala son of Mohamad Yusuf and accused fled away from the spot and while going they also took Rs.3000/- from his (complainant) pocket. That Hanif got them admitted in Hospital at Bham. The reason behind the occurrence was that Ashok Sigh and Dalbir Singh were claiming the land as their land and objected that why he (complainant) had cut down the Grass.”

Learned JMIC, Batala, after appreciating the evidence, convicted and sentenced the petitioners as stated above. An appeal was filed by the petitioners and the same was dismissed by learned Addl. Sessions Judge (A), Gurdaspur, vide judgment dated 10.12.2015.

Aggrieved from the above-said judgments, present revision petitions have been filed.

Learned counsel for the petitioners argued that petitioners are

first offenders, poor persons and they are suffering from the criminal proceedings since 2007. Learned counsel for the petitioners further contended that petitioner Ashok Singh @ Soka has already undergone actual sentence of 1 year 3 months and 5 days and petitioner Dalbir Singh @ Gora has already undergone actual sentence of 1 year 2 months and 1 day.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case, nature of the offence and in view of the fact that the petitioners are first offenders, poor persons and are suffering from long protracted criminal proceedings since 2007 i.e. for the last 9 years and also keeping in view the fact that petitioner Ashok Singh @ Soka has already undergone imprisonment of 1 year 3 months and 5 days and petitioner Dalbir Singh @ Gora has already undergone imprisonment of 1 year 2 months and 1 day including remissions out of the total sentence, the sentence imposed upon the petitioners is reduced to the sentence already undergone by them. However, the sentence of fine and in default thereof, shall remain the same.

Resultantly, both the revision petitions stand partly allowed.

Petitioners Dalbir Singh @ Gora and Ashok Singh @ Soka, who are in custody, be set at liberty forthwith, if their custody is not required in connection with any other case, subject to payment of fine, if already not paid.

October 26, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No