

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

Criminal Revision No.840 of 2016 (O&M).
Decided on:-May 13, 2016.

Mohd. Aslam and others

.....Petitioners.

Versus

State of Haryana.

.....Respondent.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- Mr. Namit Khurana, Advocate
for the petitioners.

Mr. Ashish Yadav, Addl. A.G., Haryana.

HARI PAL VERMA, J.

The petitioners, namely, Mohd. Aslam, Mohd. Akhlak, Gulzar, Mohd. Arshad, Mohd. Gulfan and Mohd. Istakar have filed the present revision petition against judgment dated 18.2.2016 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri whereby the criminal appeal No.101 of 2013 filed by petitioners No.1 to 4 and criminal appeal No.136 of 2013 filed by petitioners No.5 and 6 against judgment of conviction dated 2.2.2013 and order of sentence dated 4.2.2013 passed by learned Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri, were

dismissed.

Briefly stated, the FIR No.109 dated 21.4.2008 under Section 4-B/8 of the Punjab Prohibition of Cow Slaughter Act, 1955 (for short, the CS Act) was registered against the petitioners at Police Station Sadar Yamuna Nagar.

It was alleged in the FIR that on 21.4.2008, a secret information was received by ASI Ram Phal that some persons were coming with oxen from the side of Damla Road and would go to Uttar Pradesh. On the basis of said information, ASI Ram Phal along with other police officials reached on river bridge Khurdi and made barricades there. After some time, the accused were seen coming along with animals. The police apprehended the accused with 20 oxen which were being taken from Haryana to Uttar Pradesh for slaughtering.

Investigation was conducted and report under Section 173 Cr.PC was prepared and presented in the Court. Copies of the report was supplied to the accused free of costs as envisaged under Section 207 Cr.PC.

On finding a prima-facie case against the petitioners, charge under Section 4-B/8 of the CS Act was framed against them to which they did not plead guilty and claimed trial.

In order to prove its case, the prosecution examined as many as six witnesses. Thereafter, statements of accused under Section 313 Cr.PC were recorded wherein they denied all the allegations levelled against them

and pleaded their innocence. However, no evidence in defence was led by the accused.

Learned Magistrate vide judgment dated 2.2.2013 held the petitioners as well as two other accused, namely, Mohd. Anwar and Faijan guilty and accordingly convicted them for commission of offence punishable under Section 4-B/8 of the CS Act. Vide separate order dated 4.2.2013, learned Magistrate sentenced the accused to undergo simple imprisonment for six months and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo simple imprisonment for 15 days each.

Aggrieved against the said judgment and order, the petitioners and two other accused, namely, Mohd. Anwar and Faijan filed two appeals before the Court of Session, but the same were also dismissed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhri vide judgment dated 18.2.2016.

It is in these circumstances, the petitioners have preferred the present revision petition before this Court.

During the course of arguments, learned counsel for the petitioners has not pressed the present petition on merits and restricted his arguments qua the quantum of sentence only. Learned counsel for the petitioners has prayed that the sentence awarded to all the petitioners be reduced to the period already undergone by them. As against the awarded sentence of 6 months, the petitioners are in custody of about 3 months. There

is no other case against the petitioners under the CS Act in which they have been convicted.

Learned counsel for the petitioners has further stated 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, has submitted that the petitioners have committed a serious crime which has caused hurt to the religious sentiments of people at large, therefore, no leniency should be shown to them.

I have heard learned counsel for the parties.

On perusal of the judgments of both the Courts below, this Court is 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, illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court. Even otherwise, during the course of arguments, learned counsel for the petitioners has not assailed the judgments of conviction and restricted his arguments qua the quantum of sentence only. Moreover, as against the awarded sentence of 6 months, the petitioners have already undergone imprisonment for about 3 months. There is no other case against them under the CS Act. The conviction of the petitioners is, thus, affirmed.

In these circumstances, it is directed that the sentence awarded to the petitioners shall be reduced to the period already undergone by them subject to their payment of cost of Rs.9,000/- each to be deposited at Govind Gaushala, G.T. Road, Panipat. However, the sentence of fine imposed by the trial Court and affirmed by the appellate Court shall remain intact. The petitioners be released forthwith, if not required in any other case after payment of cost as well as the fine, if not paid so far.

Except with modification in the quantum of sentence, as indicated herein above, the revision petition stands dismissed.

May 13, 2016
SwarnjitS/Yag Dutt

(HARI PAL VERMA)
JUDGE