

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

Crl. Revision 551 of 2008

Date of Decision : February 17, 2017

Paltu and others

.....Petitioners

VERSUS

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Suvineet Sharma, Advocate
for the petitioners.

Mr. Praveen Bhadu, Asstt. A.G., Haryana.

Mr. Rajesh Sharma, Advocate for
Mr. Harkesh Manuja, Advocate
for the complainant.

T.P.S. MANN, J. (Oral)

The petitioners, eleven in numbers, alongwith one Usha, were tried for committing the offences punishable under Sections 148, 323, 324, 325 and 326 read with Section 149 IPC. During the trial of the case, Usha died and, accordingly, proceedings against her were dropped. Vide judgment and order dated 28.2.2006, learned Judicial Magistrate 1st Class, Panipat convicted the petitioners for the aforementioned offences and sentenced them to undergo imprisonment and to pay fine as follows:-

- i) Rigorous imprisonment for two years and to pay a fine of Rs.500/- each under Section 326 read with Section 149 IPC and in default of

payment of fine, to further undergo rigorous imprisonment for a period of twenty days;

- ii) Rigorous imprisonment for a period of one year each under Section 325 read with Section 149 IPC;
- iii) Rigorous imprisonment for one year each under Section 324 read with Section 149 IPC;
- iv) Rigorous imprisonment for six months each under Section 323 read with Section 149 IPC; and
- v) Rigorous imprisonment for six months each under Section 148 IPC.

All the sentences were ordered to run concurrently.

The fine imposed was deposited by them there and then.

Aggrieved of their conviction and sentence, the petitioners preferred an appeal. Smt. Bala-complainant also filed a revision on the ground that the petitioners had not been adequately punished and, accordingly, she prayed for enhancement of their punishment. Vide judgment dated 3.3.2008, learned Additional Sessions Judge, Panipat upheld their conviction. Their sentences of imprisonment as well as of fine for the offences under Section 326 read with Section 149 IPC, Section 324 read with Section 149 IPC, Section 323 read with Section 149 IPC and Section 148 IPC were maintained. For the offence under Section 325 read with Section 149 IPC, their sentence of imprisonment was upheld. However, they were

directed to pay an amount of Rs. 500/- as fine and in default thereof, to undergo rigorous imprisonment for a period of twenty days. The appeal filed by the petitioners as well as the revision filed by the complainant were, accordingly, disposed of.

Still not satisfied, the petitioners preferred the present revision which was admitted on 7.5.2008 and simultaneously, they were ordered to be released on bail.

As per the prosecution, on 2.12.1996 after receipt of an information that complainant/injured Smt. Bala wife of Satpal alongwith other injured, namely, Bala wife of Sahaba, Rekha wife of Rajinder, Kela wife of Nanha, Mukti wife of Khilla Ram, Janara son of Malkhan, Kela wife of Mohinder, Reshma wife of Hukam Singh and Chuhar Singh son of Nanha had been hospitalized in Civil Hospital, Panipat after sustaining injuries in an occurrence, Rajinder Singh Sub Inspector, the then Station House Officer, Police Station Sadar Panipat alongwith other police officials rushed to the hospital and there he came to know that injured Kela wife of Nanha and Mukti wife of Khilla Ram had been referred to Medical College, Rohtak whereas the other seven injured were still hospitalized in Civil Hospital, Panipat and thereafter he recorded the statement of complainant Smt Bala Devi wife of Satpal alleging therein that she was resident of village Chhajpur Khurd and originally hailed from village Nain Alupur and her marriage had been solemnized with Satpal son of

Malkhan about 12 years ago. One Mula, uncle of her father-in-law Malkhan was issueless and he had fourteen killas of ancestral land in his name and the said Mula had expired 4½ years ago. In the said land of Mula, her father-in-law Malkhan and Nanha sons of Bundi, Khilla and Paltu sons of Ramdia had equal shares and regarding this, litigation had been going on between his father-in-law Malkhan and Paltu etc. About 6/7 days ago, her father-in-law had sown wheat crop in their share of the land to which Paltu etc raised objections and in this regard a verbal altercation had taken place and because of this they had been nursing a grudge against them.

On 02.12.2006, complainant-Smt. Bala alongwith Reshma, Kela, Janara, Mukti and another Kela, Bala wife of Sahaba, Rekha wife of Rajinder, Kamlesh daughter of Khilla and Chuhan Singh son of Nanha had gone to the fields to cut grass. They had placed the same in a bughi which had been parked near the tubewell and they were ready to start for their houses. At about 3.00 p.m., accused persons came there on a tractor driven by accused Jaipal son of Paltu and on the bughi attached to it accused Pala, Ilma, Maha Singh, Nafe Singh, Rishi Pal sons of Paltu, Paltu, Kartari wife of Paltu, Ram Kali wife of Pala, Lakhmiri wife of Maha Singh, Saroj wife of Nafe Singh and Usha wife of Jaipal came there, who were armed with lathi, gandasis, spear and sickle. Thereafter, the accused drove the tractor in their

fields. The complainant and others alighted from the tractor as well as bughi. Accused Paltu was carrying a gandasi in his hand and he exhorted the other accused to teach a lesson to complainant party for sowing the wheat crop in the fields. Accused Jaipal drove the tractor towards them with an intention to strike them and to save themselves they ran here and there. Accused Paltu inflicted a gandasi blow towards left side of her head. Accused Pala inflicted a lathi blow on her left shoulder. Accused Ram Kali inflicted a lathi blow towards left side of her back and other accused also inflicted injuries on the persons of other members of the complainant party. After hearing their shrieks Ramesh son of Nanha and Rajinder son of Khilla Ram also arrived there and on seeing them, all the accused alongwith their respective weapons, after boarding the said tractor escaped towards the village. All the injured were got admitted in the hospital by Ramesh and Rajinder Singh.

During the pendency of the revision and noticing the fact that the bone of contention between the parties was fourteen killas of ancestral land owned by one Mula, who was issueless and the said land came to be owned by Smt. Kartari wife of Paltu on the basis of civil Court decree which stood challenged by the complainant party and by that time pending in this Court by way of second appeal, this Court found it appropriate to make an attempt for an amicable settlement of the dispute between the

parties. Accordingly, while adjourning the proceedings, this Court directed the representatives of the petitioners on the one hand and the complainant party, on the other, to appear before the Mediation and Conciliation Centre of this Court. As per the report submitted by the Director, Mediation and Conciliation Centre, the parties could not arrive at an amicable settlement and, accordingly, the matter has been sent back for its hearing by the Bench.

Learned counsel for the petitioners has not challenged the conviction of the petitioners, as recorded by the learned Courts below. However, he has submitted that they are facing the agony of criminal prosecution for the last more than twenty years. Four of them are ladies. When they were heard by the learned trial Court on the quantum of sentence, they had pleaded for taking a lenient view as they were required to look after their minor children.

As per the custody certificates already brought on record by the learned State counsel, petitioners No. 1 to 7 have already undergone total sentence of three months and one day each whereas petitioners No. 8 to 11, who are women, have undergone two months and eleven days each. None of them is shown to be either involved or convicted in any other case. They are on bail for the last about nine years. There is no allegation that any one of them has misused the concession of bail in any

manner. Under these circumstances, it will be futile exercise to send them behind the bars to serve their remaining sentences of imprisonment. At the same time, the fine of Rs. 500/- imposed upon each of them under Section 326 IPC can be enhanced so as to compensate the complainant party.

Resultantly, the conviction of the petitioners, as recorded by the Courts below, is upheld. Their substantive sentences of imprisonment are reduced to the one already undergone by them. The sentence of fine of Rs. 500/- imposed under Section 325 read with Section 149 IPC alongwith its default clause is maintained. However, the fine of Rs.500/- imposed upon them under Section 326 read with Section 149 IPC is enhanced to Rs. 5,000/- each. The enhancement amount of fine, shall be deposited by the petitioners in the Court of the Chief Judicial Magistrate, Panipat within three months from today, failing which they shall be required to undergo rigorous imprisonment for four months each. The entire enhanced amount of fine, when deposited by them, be disbursed in favour of complainant-Bala wife of Satpal, as compensation.

The revision is, accordingly, disposed of.

February 17, 2017

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**(T.P.S. MANN)
JUDGE**

Whether speaking/reasoned.

: Yes/No

Whether Reportable.

: Yes/No