

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

(i) CRR No.1401 of 2009 (O&M)

Sanjay Kumar

...Petitioner

VERSUS

State of Haryana and another

...Respondents

(ii) CRR No.1860 of 2009 (O&M)

Krishan Kumar and another

...Petitioners

VERSUS

State of Haryana

...Respondent

Date of Decision: May 05, 2017

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.K.Khunger, Advocate
for the petitioner (in CRR No.1401 of 2009).

Mr.L.S.Sidhu, Advocate
for the petitioners (in CRR No.1860 of 2009).

Mr.B.S.Virk, Deputy Advocate General, Haryana
for the respondent-State.

None for respondent No.2 (in CRR No.1401 of 2009).

INDERJIT SINGH, J.

This order shall dispose of above-mentioned two connected
revisions as both have arisen from same order.

The above-mentioned revision petitions have been filed by

petitioners against respondent State of Haryana, challenging the impugned judgment of conviction dated 25.08.2005 and order of sentence dated 27.08.2005 passed by learned Sub Divisional Judicial Magistrate, Dabwali, vide which the petitioners were convicted under Sections 323, 324, 326 and 427 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for a maximum period of three years under Section 326 read with Section 34 IPC along with fine and also challenging the judgment dated 09.05.2009 passed by learned Addl. Sessions Judge, Fast Track Court, Sirsa, vide which appeal filed by petitioners was dismissed. All the sentences were ordered to run concurrently. It is pertinent to mention here that petitioner Billa @ Amit has already died during the pendency of the present case, therefore, proceedings against him are abated.

From the record, I find that challan was presented against accused-petitioners in case FIR No.112 dated 02.06.2002 under Sections 323, 324, 326, 427 and 34 IPC. The brief facts of the case as noted down in the judgment passed by learned SDJM, Dabwali, are as under:-

“2. In nutshell, the case of the prosecution is that on 2.6.2002 on receipt of telephone call in the police station regarding admission of injured Vijay Kumar in G.H. Dabwali Sub Inspector Kishori Lal went to G.H. Dabwali for recording the statement of injured Vijay Kumar but the doctor on duty declared the injured unfit to make the statement. However, the wife of the injured who was present nearby the injured got recorded her statement to the police that she is a resident of Ward No.11, Mandi Dabwali and her husband was running a shop for selling tea, juice and soft drink. On 1.6.2002 at about 4.00 P.M. Billa son of Shri Faquir Chand came to their shop and demanded a soft drink from their servant Bhima and when their servant demanded money from Billa, he gave a blow of empty bottle of the soft drink on his head. Upon this, scuffles broke out between her husband and billa. On the fateful date at about 5.00 p.m. Billa, Sanjay, Biru and Krishan, who were armed with swords came to their shop and damager their shop/khokha and drinks lying in their khokha. She has

further stated that she and her husband asked them not to do so, upon this all of them became angry and asked them to teach a lesson for not giving the soft drink and on saying that, all of them started giving blows of swords to her husband and they also gave slaps and fisticuffs to her husband. She raised an alarm and on hearing the noise, her mother-in-law, her brother-in-law Prem Kumar came there and rescued her husband from the clutches of the accused and many people gathered there and all the accused persons fled away along with their swords. Thereafter, her husband was evacuated to the hospital for treatment.

During investigation, the Investigation Officer, recorded the statements of the witnesses under section 161 Cr.P.C. prepared site plan of the place of occurrence, collected MLRs and X-ray report, recovered the swords into possession and arrested the accused, after completion of usual formalities of investigation, challan was filed in the court against the accused to face trial.”

Learned SDJM, Dabwali, 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, Sirsa, vide judgment dated 09.05.2009.

Aggrieved from the above-said judgments, present revision petition has been filed by the petitioner.

At the time of arguments, learned counsel for the petitioners did not dispute the concurrent findings given by learned Courts below, regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioners argued that petitioners are poor persons, first offenders, only bread earners of the family and suffering from the criminal proceedings since 2002. Learned counsel for the petitioners also contended that compromise has also been effected between the parties.

Though, today none has come present on behalf of respondent-

counsel for respondent No.2, on instructions from respondent No.2, who was also present in Court on that date, stated that parties have effected compromise (Annexure P-1) and respondent No.2, who is the sole injured, has also furnished affidavit (Annexure P-2) regarding the compromise. The order dated 14.10.2009 along with the documents shows that parties have effected the compromise.

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

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 25.08.2005 passed by learned SDJM, Dabwali, is correct, as per law and does not require any interference from this Court.

However, keeping in view the facts and circumstances of the present case and in view of the fact that petitioners are stated to be poor persons, first offenders, only bread earners of the family and are facing long protracted criminal proceedings since 2002 i.e. for the last about 15 years and also in view of the fact that the compromise has already been effected between the parties, the sentence imposed upon the petitioners is reduced and they are directed to undergo rigorous imprisonment for a period of one year each under Section 326 read with Section 34 IPC. However, other sentences, sentence of fine and in default thereof shall remain the same.

With the above-said modification in the sentence, both the revision petitions stand dismissed.

As petitioners Sanjay Kumar and Krishan Kumar are on bail,

their bail bonds stand cancelled and they are directed to surrender

themselves before the jail authorities immediately for completing remainder of sentence, failing which the concerned authority shall proceed against them in accordance with law.

May 05, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No