

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

CRR No.677 of 2009.

Decided on:-August 08, 2017.

Darshan Singh and others

.....Petitioners.

Versus

State of Punjab.

.....Respondent.

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

Present:- Mr. A.P.S. Deol, Senior Advocate with
Mr. Vishal Rattan Lamba, Advocate
for the petitioners.

Mr. Bhupender Beniwal, AAG, Punjab.

HARI PAL VERMA, J.

Petitioners, namely, Darshan Singh, Mithu Singh, Bala Singh, Janta Singh and Sukhdev Singh @ Sewak Singh have filed the present revision petition challenging the judgment dated 04.03.2009 passed by learned Additional Sessions Judge (Fast Track Court), Bathinda, whereby the two appeals i.e. one filed by petitioners Darshan Singh, Bala Singh and Sukhdev Singh and another filed by petitioners Mithu Singh and Janta Singh against the judgment of conviction dated 08.01.2007 and order of sentence dated 12.01.2007 passed by learned Sub Divisional Judicial Magistrate, Talwandi Sabo, were dismissed.

Learned Magistrate vide judgment dated 08.01.2007 convicted the petitioners for offence punishable under Sections 148/326/324/323 read

with Section 149 IPC and vide separate order dated 12.01.2007, sentenced petitioners Bala Singh, Janta Singh and Sukhdev Singh as under:

<u>Under Section</u>	<u>Sentence</u>
148 IPC	RI for one year and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo RI for one month.
326 read with Section 149 IPC	RI for three years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo RI for one month.
324 read with Section 149 IPC	RI for one year and to pay a fine of Rs.500/- each and in default thereof, to further undergo RI for 15 days.
323 IPC	RI for three months and to pay a fine of Rs.250/- each and in default thereof, to further undergo RI for 7 days.

Learned Magistrate had sentenced petitioner Darshan Singh as under:

<u>Under Section</u>	<u>Sentence</u>
148 IPC	RI for one year and to pay a fine of Rs.1,000/- and in default thereof, to further undergo RI for one month.
326 IPC	RI for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo RI for one month.
324 read with Section 149 IPC	RI for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo RI for 15 days.
323 read with Section 149 IPC	RI for three months and to pay a fine of Rs.250/- and in default thereof, to further undergo RI for 7 days.

Similarly, petitioner Mithu Singh was sentenced by learned

Magistrate as under:

<u>Under Section</u>	<u>Sentence</u>
148 IPC	RI for one year and to pay a fine of Rs.1,000/- and in default thereof, to further undergo RI for one month.
326 read with Section 149 IPC	RI for three years and to pay a fine of Rs.1,000/- and in default thereof, to further undergo RI for one month.
324 IPC	RI for one year and to pay a fine of Rs.500/- and in default thereof, to further undergo RI for 15 days.
323 read with Section 149 IPC	RI for three months and to pay a fine of Rs.250/- and in default thereof, to further undergo RI for 7 days.

Briefly stated, FIR No.67 dated 27.06.2001 under Sections 326/324/323/148/149 IPC was registered against the petitioners-accused at Police Station Talwandi Sabo with the allegations that on 26.06.2001 at about 8.00 PM in the area of village Mahi Nangal, the petitioners, being the members of an unlawful assembly in prosecution of common object armed with deadly weapons for committing riots, had inflicted simple as well as grievous injuries to complainant-injured Tehal Singh and simple injuries to injured Joginder Singh.

After completion of investigation, Challan was presented in the Court. Copies of C hallan were supplied to the accused free of costs as envisaged under Section 207 Cr.PC. Thereafter, the accused were charge-sheeted by the trial Court for the commission of offence under Sections 148/149/326/324/323 IPC to which they did not plead guilty and claimed

trial.

After recording the evidence and hearing the parties, the trial Court vide its judgment dated 08.01.2007 and order dated 12.01.2007 had convicted and sentenced the petitioners-accused in the manner stated above.

Feeling aggrieved, the petitioners preferred their appeals against the said judgment of conviction and order of sentence before the Court of Session. However, the appeals were also dismissed vide judgment dated 04.03.2009 passed by learned Additional Sessions Judge (Fast Track Court), Bathinda.

It is in these circumstances, the petitioners have filed the present revision petition challenging the verdicts of the Courts below.

Learned senior counsel for the petitioners has argued that PW1 Dr. S.S. Malik of Civil Hospital, Bathinda had proved the medico-legal report (MLR) as Ex.P1 and as per the said MLR, there were 9 injuries on the person of complainant-injured Tehal Singh. After the x-ray examination, the doctor had given opinion Ex.PE/1 vide which injury No.3 on the person of injured Tehal Singh was declared to be grievous in nature. The other injuries were simple in nature. The injury No.3 was attributed to petitioner-accused Darshan Singh, who has died on 30.08.2013. He has also produced a copy of Death Certificate of petitioner Darshan Singh issued by the Registrar, Births and Deaths. The same is taken on record.

The factum of death of petitioner Darshan Singh has not been denied by learned State counsel. Accordingly, the proceedings against petitioner Darshan Singh are dropped and the present revision petition qua

him stands abated.

So far as the remaining petitioners, namely, Mithu Singh, Bala Singh, Janta Singh and Sukhdev Singh @ Sewak Singh are concerned, learned senior counsel for the petitioners has not challenged their conviction and has confined his arguments qua the quantum of sentence only. He has submitted that the petitioners are facing the agony of criminal proceedings for the last more than 16 years as the FIR in question was registered against them on 27.06.2001. No other case is pending against them and they are first time offenders. As against the awarded sentence of 3 years for offence under Section 326 IPC, they have already undergone imprisonment for a period of more than 5 months. Moreover, injury attracting Section 326 IPC is attributed to Darshan Singh, who has already died. The petitioners have been convicted with the aid of Section 149 IPC. He has, thus, prayed that the sentence awarded to the petitioners may be reduced to the period already undergone by them.

On the other hand, learned State counsel, though has not disputed the custody of the petitioners, but has argued that learned trial Court has already taken a lenient view regarding the sentence of petitioners. Thus, no interference is warranted in the quantum of sentence.

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 for commission of offence under Sections 148, 323, 324 and 326 read with Section 149 IPC.

The injury attracting Section 326 IPC is attributed to petitioner Darshan Singh (since deceased). The appellate Court has also rightly dismissed their appeals. There is no illegality or perversity in the findings given by both the Courts below which may warrant interference of this Court by invoking revisional jurisdiction. Even otherwise, learned senior counsel for the petitioners has not assailed the judgments of conviction and has, rather, restricted his arguments qua the quantum of sentence only. The conviction of the petitioners, namely, Mithu Singh, Bala Singh, Janta Singh and Sukhdev Singh @ Sewak Singh is, therefore, affirmed.

Therefore, considering the fact that the petitioners have suffered a protracted trial coupled with the fact that against the awarded sentence of three years, they have undergone imprisonment for more than five months, and injury inviting under Section 326 IPC is attributed to petitioner Darshan Singh (since deceased), this Court feels that the ends of justice would be met, if the sentence awarded to the petitioners, namely, Mithu Singh, Bala Singh, Janta Singh and Sukhdev Singh @ Sewak Singh is reduced to the period already undergone by them.

Ordered accordingly.

However, there shall be no change in the sentence of fine.

With aforesaid modification in the order of sentence, the present revision petition is dismissed.

August 08, 2017

Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No