

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: 05.12.2017

1. CRR-2719-2013 (O&M)

Kashmir Singh and others

... Petitioners

Vs.

State of Haryana

... Respondent

2. CRR-3543-2013 (O&M)

Kulwant Singh

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Parminder Singh, Advocate
for the petitioners (in CRR-2719-2013) and
for respondents No.2 to 4 (in CRR-3543-2013).

Mr. Vivek Goel, Advocate
for the petitioner (in CRR-3543-2013) and
for the complainant (in CRR-2719-2013).

Ms. Harpreet Kaur, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (ORAL)

This order shall dispose of two criminal revision petitions bearing
CRR No.2719 of 2013 (Kashmir Singh and others Vs. State of Haryana) and

CRR No.3543 of 2013 (Kulwant Singh Vs. State of Haryana and others).

Prayer in CRR No.2719 of 2013 filed by the petitioners-accused Kashmir Singh and others is for setting aside the judgment of conviction dated 29.03.2011 and order of sentence dated 31.03.2011 passed by the trial Court and the judgment dated 17.08.2013 passed by the lower appellate Court, vide which the conviction of the petitioners was upheld, however, the sentence of petitioners No.2 and 3 was modified and prayer in CRR No.3543 of 2013 filed by the complainant Kulwant Singh is for enhancement of the sentence awarded to accused-respondents No.2 to 4.

Brief facts of the case are that the petitioners faced trial in FIR No.66 dated 10.07.2003 under Sections 323, 324, 325, 326, 506/34 of the Indian Penal Code ('IPC' for short) registered at Police Station Dhand, District Kaithal, on a complaint made by Kulwant Singh, injured witness. The trial Court, after recording the statement of the prosecution witnesses and affording an opportunity of hearing to the petitioners-accused persons for recording their statement under Section 313 Cr.P.C., held them guilty of offence punishable under Sections 323, 324, 325, 326, 506 read with Section 34 IPC, vide its judgment dated 29.03.2011 and vide order of sentence dated 31.03.2011, all the accused persons were awarded the sentence of R.I. for two years and six months and to pay a fine of Rs.1700/- each. Thereafter, the petitioners filed the appeal before the lower appellate Court. The complainant also filed an appeal for enhancement of the sentence. The lower appellate Court vide a consolidated judgment dated 17.08.2013, while upholding the conviction under Sections 323, 325, 326 read with Section 34 IPC, the sentence awarded to petitioners No.2 and 3 namely Malak Singh and Jagtar Singh was reduced from two years and

six months to two years R.I., however, the sentence awarded to petitioner No.1 Kashmir Singh was upheld qua two years and six months and they were directed to pay a fine of Rs.1700/- each. However, the appeal filed by the respondent-complainant was dismissed. The present revision petitions have been filed both by accused and complainant.

During the course of arguments, counsel for the complainant Kulwant Singh submitted that if some suitable compensation is paid to the complainant, the sentence awarded to the petitioners may be reduced to the period already undergone by them.

Learned counsel for the petitioners submits that petitioner No.1 Kashmir Singh is aged about 70 years and he has undergone 08 months and 22 days of actual sentence and 10 months and 27 days of total sentence including remission. Similarly petitioners No.2 and 3 namely Malak Singh and Jagtar Singh have undergone 07 months and 07 days of actual sentence and 08 months and 19 days of total sentence including remission and all the petitioners are not involved in any other case. Counsel for the petitioners further submits that the accused persons are father and sons and they have not repeated the offence subsequent to grant of bail by this Court or during the period, they were on bail pending trial and appeal. It is further submitted that the petitioners have faced protracted trial since 2003 and they are ready to pay some compensation to the complainant Kulwant Singh, who is also stated to be more than 70 years of age. Learned counsel for the petitioners has further submitted that an amount of Rs.6,000/- has already been paid before the trial Court during the trial and they are ready to pay a total compensation of Rs.75,000/-.

Learned State counsel has filed custody certificates of the

petitioners dated 29.03.2017 and has not disputed the period of actual sentence undergone by them.

In view of the submissions made by learned counsel for the petitioners as well as learned counsel for the complainant, both these revision petitions are disposed of, considering the fact that the accused-petitioners have agreed to pay additional compensation of Rs.69,000/- to the complainant Kulwant Singh by adjusting the amount of compensation to the tune of Rs.6,000/- already paid before the trial Court out of total compensation of Rs.75,000/- agreed between the parties.

Accordingly, the sentence undergone by the petitioners-accused is reduced to the period already undergone by them. The petitioners-accused are directed to pay additional compensation to the tune of Rs.69,000/- by way of demand draft favouring complainant Kulwant Singh, either to the complainant or to his counsel appearing in the present case on or before 08.01.2018.

It is made clear that in case the petitioners-accused failed to hand over the demand draft of Rs.69,000/- on account of compensation within the time prescribed, CRR No.2719 of 2013 shall be deemed to be dismissed without passing any further orders and the petitioners shall have to undergo the remaining sentence, in accordance with law.

Both these revision petitions are disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

05.12.2017

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No