

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

(1)

CRR-3509-2013

Date of decision:-14.9.2017

Sunil Kumar @ Sonu @ Fauza

...Petitioner

Versus

State of Punjab and another

...Respondents

(2)

CRR-3510-2013

Paramvir Singh @ Kaka and another

...Petitioners

Versus

State of Punjab and another

...Respondents

(3)

CRR-3511-2013

Sunder

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM : HON' BLE MR. JUSTICE H.S. MADAAN

Present : Mr.Krishan Mohan Vohra, Advocate for
Mr.Sumeet Goel, Advocate
for the petitioners.

Mr.K.S. Aulakh, DAG, Punjab.

Mr.Sarabjit Singh, Advocate
for respondent No.2.

H.S. MADAAN, J.

Vide this judgment, I propose to dispose of three criminal revisions i.e. **CRR-3509-2013** filed by Sunil Kumar @ Sonu @ Fauza, **CRR-3510-2013** filed by Paramvir Singh @ Kaka and Jagjit Singh @ Bhindi and **CRR-3511-2013** filed by Sunder.

These revision petitions are directed against the judgment dated 29.1.2011 passed by Judicial Magistrate Ist Class, Amritsar as well as judgments dated 21.10.2013 passed by Additional Sessions Judge (Ad hoc), Fast Track Court, Amritsar vide which the said judgment by Judicial Magistrate Ist Class, Amritsar was affirmed and appeals filed by the accused – convicts were dismissed.

Learned Judicial Magistrate Ist Class, Amritsar had convicted all the accused under Sections 323/326/148/149 IPC and sentenced them as under:

Name of convict(s)	Offence under Section	Sentence
Paramvir Singh @ Kaka	326 IPC	Rigorous imprisonment for a period of 2 years and to pay a fine of Rs.500/- and in default thereof, to further undergo rigorous imprisonment for a period of five days.
Wazir Singh, Jagjit Singh @ Bhindi, Sunil Kumar @ Sonu @ Fansa and Sunder	326 read with Section 149 IPC	Rigorous imprisonment for a period of 2 years and to pay a fine of Rs.500/- each and in default thereof, to further undergo rigorous imprisonment for a period of five days.
Jagjit Singh @ Bhindi and Sunil	323 IPC	Rigorous imprisonment for a period of six

Kumar @ Sonu @ Fansa and Sunder		months each.
Wazir Singh, Paramvir Singh @ Kaka	323 read with Section 149 IPC	Rigorous imprisonment for a period of six months each.
Wazir Singh, Paramvir Singh @ Kaka, Jagjit Singh @ Bhindi, Sunil Kumar @ Sonu @ Fansa and Sunder	148 IPC	Rigorous imprisonment for a period of one year each.

All the sentences were ordered to run concurrently,

The accused-convicts, who are petitioners before this Court pray that the revision petitions be accepted, the impugned judgments of their conviction and order of sentence by Judicial Magistrate Ist Class, Amritsar and judgments in appeal by Additional Sessions Judge(Ad hoc), Fast Track Court, Amritsar be set aside and they be acquitted of the charge framed against them.

Briefly stated, the prosecution story is that on 19.11.2002, a police party from Police Station A-Division, Amritsar led by ASI Hardip Singh (hereinafter referred to as the Investigating Officer/IO) was present at Chowk Gha Mandi, Amritsar, where the said ASI received a copy of MLR relating to Jatinder Singh @ Raja son of Pooran Singh, resident of House No.3217, Gali Bhatiryan, Katra Baghian, Ram Bagh, Amritsar produced by Mohinder Singh, as such the police party proceeded towards Guru Teg Bahadur Hospital, Amritsar; that after obtaining medical opinion regarding fitness of injured Jatinder Singh @ Raja to make statement, the Investigating Officer recorded statement of complainant Jatinder Singh @ Raja, wherein he stated that he is engaged

in avocation of printing banners at home; that on 16.11.2002 at about 9:30 p.m. when he was talking with his uncle in front of his house, in the meanwhile Wazir Singh along with two other boys and Faiza, who resides at Katra Baghian came there; that at that time Wazir Singh was armed with a dang(club); that he raised an alarm that Jatinder Singh @ Raja should be caught and taught a lesson for quarrelling with them; that then Kaka having a kirpan (sword) attacked Jatinder Singh @ Raja therewith; that Jatinder Singh @ Raja raised his right hand to save himself and in the process the kirpan hit him on ring finger of his right hand; that accused Bhindi having dang assaulted complainant hitting him on his right hand which he had raised to save himself; that another blow given by Bhindi with dang hit the complainant in the middle of his right fingers; that Sunder and Faiza gave fist blows to him; that complainant and his uncle raised alarm which attracted Harjinder Singh and Baljinder Kaur sister-in-law of complainant to the spot; that when several other people gathered there, the assailants ran away along with their respective weapons. Injured was taken to Guru Teg Bahadur Hospital, Amritsar where he was medico legally examined and medically treated. The injured gave the motive for the incident being an earlier fight between the two parties; that though the respectables had tried to get the matter compromised but it did not materialise. Keeping in view the nature of injuries, finding that offences under Sections 323, 324, 148, 149 were disclosed, ASI sent ruqa to the police station, on the basis of which formal FIR was registered. On 21.11.2002 x-ray report was received and thereafter offence under Section 326 IPC was added. On 28.11.2002, a kirpan was recovered from the possession of accused

Paramjit Singh @ Kaka, which was taken into police possession. Accused Sunil Kumar @ Sonu @ Fansa and Wazir Singh were arrested in this case on 29.11.2002 whereas Jagjit Singh was arrested on 15.2.2003, Sunder was arrested on 9.9.2003. After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan in the Court of Area Magistrate, he supplied copies of documents relied upon in the challan to the accused free of costs as provided under Section 207 Cr.P.C.

Learned Judicial Magistrate Ist Class, Amritsar finding that charge for offence under Sections 148/326/323/149 IPC was disclosed against the accused, charge-sheeted them for the said offences, to which, they pleaded not guilty and claimed trial. The case was then fixed for evidence of the prosecution.

To bring home guilt to the accused, the prosecution examined as many as nine witnesses, namely, PW1 Mohinder Singh, PW2 ASI Kulwinder Singh, PW3 Jatinder Singh, PW4 Harjinder Singh, PW5 Dr.Vijay Arora, PW6 ASI Kashmir Singh, PW7 ASI Gurminder Singh, PW8 Constable Mohinder Singh and PW9 Dr.Mohinder Singh. Thereafter, the prosecution evidence was closed by Court order.

Statements of the accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against such accused were put to them but they denied the allegations contending that they were innocent and had been falsely involved in this case.

During the course of defence evidence, accused examined

HC Gurmit Singh as DW1, who proved on record photocopy of FIR No.127 dated 14.8.2002, Police Station A Division, Amritsar as Ex.DW1/A.

DW2 Dr.Manpreet Kaur (wrongly renumbered as DW1), proved MLR of Pawanveer Singh as Ex.DW1/A.

Another witness examined by the accused happened to be Bakshish Singh (should be DW3), who had brought the record of the FIR No.127/02, under Sections 341/323/34 IPC, Police Station A Division, Amritsar.

With that the defence evidence got concluded.

After hearing arguments, learned Judicial Magistrate Ist Class, Amritsar convicted and sentenced the accused as mentioned supra, the appeal preferred against the judgment of conviction and order of sentence passed by the Judicial Magistrate Ist Class, Amritsar was also decided against the accused by learned Additional Sessions Judge (Ad hoc), Fast Track Court, Amritsar, which left petitioners – accused aggrieved and they have filed the present revision petitions.

I have heard learned counsel for the petitioners-accused-convicts and learned Assistant Advocate General for the State of Punjab besides going through the record.

During the pendency of the revision petitions, the parties have compromised the matter. Written compromise in that regard has been placed on file as Annexure P-1. This compromise deed is signed by both the parties, besides being witnessed by two persons. Affidavits of Jatinder Singh @ Raja complainant/injured and those of accused have been placed on file. They admit the factum of compromise.

Learned counsel for the revision petitioners has pressed into service authority *Jagjit Singh Versus The State of Punjab, 1983(2) R.C.R.(Criminal) 136* by a Co-ordinate Bench of this Court, when accused had been convicted for the offences under Sections 326, 324 and 34 IPC and appeal against conviction of accused was pending, during which parties compromised to live peacefully, the offences were non compoundable, the sentence was reduced to already undergone observing that the fact of compromise can be taken in account in determining the question of sentence.

Learned counsel for the petitioners has further referred to authorities *Bahadur Versus State of Haryana, 1999(2) R.C.R.676, Ajaib Singh Versus State of Punjab, 2012(2) R.C.R.(Criminal) 413* and *Jetha Ram and others Versus State of Rajasthan, 2006(9) SCC 255* in that regard.

As per the custody certificates, petitioner – accused Sunil Kumar @ Sonu @ Fansa has undergone one month and 11 days, petitioner - accused Parambir Singh @ Kaka has undergone one month and one day and petitioners - accused Jagjit Singh @ Bhindi and Sunder have undergone 26 days.

The parties have compromised the matter. The compromise is in interest of peace and tranquility in the society.

I find that ends of justice would be squarely met if the petitioners are sentenced to imprisonment already undergone by them, while in custody in the present case, whereas the part of conviction relating to payment of fine is kept as intact. Therefore, the impugned judgments are upheld as regards conviction part qua the petitioners.

However, as far sentence part is concerned, the same is modified and the petitioners are sentenced to imprisonment already undergone by them as mentioned supra. Whereas the sentence regarding payment of fine and in default of making payment of fine remains intact.

As such the revision petitions challenging the impugned judgment stand disposed of with above modification in sentence.

Necessary intimation be sent to the quarter concerned.

14.9.2017
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No