

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

CRR No.2142 OF 2014 (O&M)
DATE OF DECISION : 8th MARCH, 2017

Munmun & another

.... Petitioners

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. Rajbir Sehrawat, Advocate for the petitioners.
 Mr. Chetan Sharma, AAG, Haryana.

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A. B. CHAUDHARI, J. (ORAL)

Rule heard forthwith with consent of learned counsel for the parties.

There are two petitioners who were convicted by the trial Court for offence punishable under Sections 323, 342 & 506 IPC and both were sentenced to undergo rigorous imprisonment for one year along with fine of ₹1,000/- in each section. The appeal was dismissed by the lower appellate Court. Hence, this revision petition.

Learned counsel for the petitioners fairly states that there is no other case pending against the petitioners. Learned counsel for the petitioner further states that petitioner No.2 has already undergone the sentence as has been ordered by the trial Court and therefore his appeal is not being pressed.

Statement of the learned counsel for the petitioners is accepted and the petition filed on behalf of petitioner No.2 is dismissed accordingly.

Next question is about the conviction and sentence of petitioner No.1-Munmun.

Learned counsel for the petitioner submits that since two courts have committed error in entering the conviction of the petitioner, however, as a matter of fact no weapon, namely alleged pistol, was recovered nor there was any charge under Arms Act. According to him the petitioner No.1 has been convicted for offence punishable under Section 323 IPC, which itself negated the fact that no weapon was used and simple injury appears to have been caused. Petitioner No.1 had already undergone 2 months and 25 days out of one year awarded to him.

I have gone through the judgment and reasons recorded by both the courts below. It is true that the lower appellate Court has shown anxiety due to the crimes of the type namely entering in the house forcefully by the petitioners with country made pistol etc. in the Gurgaon area and therefore, decided not to reduce the sentence. However, I find that the charge at all framed against the petitioner is under Sections 323, 342 and 506 IPC and not under the Arms Act. Obviously because no recovery of the country made pistol was at all made.

Learned counsel for the petitioners states that earlier petitioner No.1 is not facing prosecution of the same nature. He has already undergone the sentence as above. The co-accused i.e. petitioner No.2 has already undergone the sentence imposed by the trial Court, I think in the whole background that the sentence of 2 months and 25 days undergone by the petitioner No.1 would be sufficient and he can be let off on the same sentence undergone by him. However, petitioner No.1 will have to pay amount of ₹20,000/- by way of fine in place of the

amount of fine imposed by the trial Court, which shall be forfeited to the State Government. In the result I make the following order:

ORDER

- (i) The CRR No.2142 OF 2014 is partly allowed.
- (ii) The impugned judgment and order of conviction of the petitioners is confirmed.
- (iii) The impugned order of sentence of the petitioner No.1 ordered by the Court below is set aside qua petitioner No.1 only and modified and the petitioner No.1 shall undergo the sentence which he had already undergone subject to the deposit of ₹20,000/- by way of fine before the trial Court within four weeks from today. Failure to deposit the fine shall result into further sentence of rigorous imprisonment for one month.

8th MARCH, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No