

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

CRR No.1938 of 2016

Date of Decision: February 15, 2017

Hardev Singh @ Mantu and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. Surinder Garg, Advocate
for the petitioners.

Mr. Gurvir Sidhu, AAG, Punjab.

FATEH DEEP SINGH, J.

Hardev Singh @ Mantu and Bakhtaur Singh, present petitioners were initially tried in case bearing FIR No.100 dated 20.08.2015 under Sections 341,325,323 IPC pertaining to Police Station, Sadar, Sri Muktsar Sahib and the Court of learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib held both of them guilty for commission of offences under Sections 323,325 and 34 IPC and sentenced them to undergo rigorous imprisonment for 01 year under Sections 325 and 34 IPC and 06 months under Section 323 IPC and to pay fine of Rs.300/- each and in default thereof to undergo rigorous imprisonment for 07 days.

Against these findings, the convict-appellants had gone into for an appeal and the Court of learned Additional Sessions Judge, Sri Muktsar Sahib through impugned judgment dated 09.05.2016 upheld the

findings of the trial Court and dismissed their appeal. That is how, the parties are before this Court in this criminal revision petition.

Heard learned counsel for the parties and perused records of the case.

The brief allegations of the prosecution story in the light of the statement of the complainant which was made before the ASI Surinder Singh are that on 18.08.2012 around 7.30 p.m son of the complainant namely Gurdeep Singh, complainant himself along with his younger son Sukhdeep Singh were going from their house to village pond when Hardev Singh @ Mantu, petitioner came on jeep in which his co-accused and brother Bakhtaur Singh was sitting next to the seat with that of the driver. They stopped their vehicle and at that time Hardev Singh @ Mantu armed with *gandasi* and Bakhtaur Singh armed with *dang* raised a *lalkara* that they will teach a lesson to the complainant side and gave injuries to the complainant side. Upon investigations and presentation of challan charges under Section 323/325/34 IPC were framed by the trial Court to which the accused pleaded not guilty and claimed trial.

At the trial, prosecution examined PW1 complainant Sadhu Singh, PW2 Gurdeep Singh, son of the complainant, PW3 Dr. Gurpreet Singh, PW4 Dr. H.N. Singh, PW5 HC Sukhwinderpal Singh and PW6 ASI Surinder Singh and proved documents Ex.P1 to Ex.P5, Ex.PW3/B, PW3/C, Ex.PW3/D, Ex.PW3/E, Ex.PW3/F, Ex.PW4/A, Ex.PW4/B, Ex.PW4/D, Ex.PW5/A, Ex.PW6/A, Ex.PW6/B, Ex.PW6/D, Ex.PW6/E, Ex.PW6/F, Ex.PW6/G and, thereafter, closed the evidence. Oral as well as documentary evidence was put to the accused and their statement

under Section 313 recorded to which they denied but did not lead any evidence in defence leading to conviction and that is how the parties are before this Court in the present petition.

Heard learned counsel for the parties and perused the records of the case. Learned counsel for the petitioners at the very onset has made a prayer that the petitioners be allowed concession of bail as the offences for which they have been convicted are not heinous in nature which is sought to be opposed by the learned State counsel on the grounds that since the petitioners have taken law in their own hands, thus, they are not entitled to any relief.

Appreciating the submissions of the two sides, since the day of the occurrence till today the petitioners had suffered the trauma of investigations, trial and conviction of almost more than 04 and half years. Both the petitioners being brothers are members of the same family and this skirmish arising out of the sudden provocation must have caused distress to the family of the accused as well and it is duly accepted that the petitioners have remained behind the bars for a long period of time and the parties belong to the same very village and if the petitioners are sent to custody it would certainly sow the seeds of enmity and hatred which will lead to more serious consequences, besides, the fact that if sent to custody they may mix up with the bad elements and may be digressed from the path of rectitude. More so, the learned Courts below have failed to exercise powers under Section 360 Cr.P.C which are made purely in consonance with the theory of bringing the persons who have wandered from the path of rectitude to the main stream of life and, therefore, Theory of Reformation

needs to be applied. The Courts below have not given any reasons as to the failure of exercise of such a beneficial provision. It is duly accepted by the State counsel that the petitioners have no criminal history and the offences for which they have convicted are not serious in nature. Thus, this Court deems it appropriate to allow concession of probation to the petitioners. The petitioners are allowed concession of probation in terms of Section 4 of the Probation of Offenders Act, 1958 for a period of one year on their entering into a bond in the sum of Rs.20,000/- each with one surety each of the like amount to the satisfaction of the trial Court undertaking therein that they shall keep peace and maintain good behaviour and shall appear and receive sentence as and when called upon to do so during the said period. The impugned judgment stands modified to that extent.

In the light of the same, the revision petition stands disposed of accordingly.

(FATEH DEEP SINGH)
JUDGE

February 15, 2017
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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No