

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

**CRR No.3353 of 2014 (O&M)
Date of Decision: August 29, 2017**

Sunil

...Petitioner

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Akashdeep Singh, Advocate
for the petitioner.

Mr.Parveen Aggarwal, Sr.DAG, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Sunil against respondent State of Haryana, challenging the impugned judgment of conviction dated 10.10.2013 and order of sentence dated 11.10.2013 passed by learned Principal Magistrate, Juvenile Justice Board, Rohtak, vide which the petitioner was convicted under Sections 302 read with Section 34 IPC and he was sent to Special Home for a period of three years and also challenging the judgment dated 09.10.2014 passed by learned Sessions Judge, Rohtak, vide which appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against the petitioner in case FIR No.207 dated 17.07.2002. The brief facts of the case as noted down in the judgment passed by learned Principal Magistrate,

JJB, Rohtak, are as under:-

“2. The prosecution case has been registered on the statement of Phool Kumar son of Ram Diya, Caste Jat, resident of village Bohar therein alleging that he is an agriculturist and has five brothers. He, Dharambir and Satpal resided together whereas Kartar and Om Parkash are residing separately. He has two sons and one daughter. Ravinder is his elder son. On 17.7.2002 at about 5.00 A.M. his son Ravinder aged about 18 years and Satish son of his brother Om Parkash were going towards Johar to attend the nature of call and they were going ahead him. At about 5.30 A.M. when his son Ravinder and Satish were going towards Mortuary, Narender son of Mahabir Singh, Caste Jat, resident of Bohar armed with Hockey and Sunil son of Dharambir, caste Jat, resident of Bohar were seen coming from Mortuary side. Narender caught hold of his son, in the mean time he also reached at the spot. Sunil gave a knife blow on the chest of Ravinder and Narender gave a Hockey blow on the back of Ravinder. He tried to intervene and raised alarm. On hearing the same, Narender and Sunil fled away from the spot towards village side. Thereafter, he shifted his son in PGIMS, Rohtak where Doctor declared him dead. The motive was that Ravinder had relation with Sunita daughter of Mahabir Singh and two days prior to the occurrence there was an altercation between accused and his son Ravinder. On the basis of this statement, formal FIR was registered. During investigation accused were arrested. Post Mortem of deceased was conducted. Statements of witnesses were recorded. Accused Sunil was found to be juvenile therefore, supplementary challan of juvenile was presented before this Board whereas challan of remaining accused was presented before the Illaqa Magistrate.”

Learned Principal Magistrate, JJB, Rohtak, after appreciating the evidence, convicted and sentenced the petitioner as stated above. Appeal was filed by the petitioner and the same was dismissed by learned Sessions Judge, Rohtak, vide judgment dated 09.10.2014.

Aggrieved from the above-said judgments, present revision petition has been filed.

Notice of motion was issued. Learned State counsel appeared and contested the petition.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence. Learned counsel for the petitioner argued that now the petitioner, who was juvenile at the time of occurrence, is 31 years of age and as such, he cannot be kept in the Observation Home due to this age nor his sentence can be executed at any other place. He also relied upon the law laid down by the Hon'ble Supreme Court in *Matibar Singh vs. State of U.P., 2015(3) RCR (Criminal) 82, Bhim @ Uttam Ghosh vs. State of West Bengal, 2010(14) SCC 571* and *Pradeep Kumar vs. State of U.P., 1994 AIR (SC) 104*.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the law laid down by the Hon'ble Supreme Court as cited above, I find that the petitioner cannot be sent to Observation Home due to his age nor his sentence can be executed at any other place. Therefore, the sentence imposed upon the petitioner is reduced to the sentence already undergone by him.

Therefore, the present revision petition stands partly allowed.

Since petitioner Sunil is on bail, his bail/surety bonds stand discharged.

August 29, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No