

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

**CRR No.2904 of 2016 (O&M)
Date of Decision: February 02, 2017**

Shankar and others

...Petitioners

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Prateek Pandit, Advocate for
Mr.K.B.S.Mann, Advocate
for the petitioners.

Mr.Sandeep Bansal, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioners against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 13.10.2015 passed by learned Addl. Chief Judicial Magistrate, Sri Muktsar Sahib, vide which the petitioners were convicted under Sections 323, 325 read with Section 149 IPC and sentenced to undergo rigorous imprisonment for a maximum period of one year each under Section 325 read with Section 149 IPC along with fine and also challenging the judgment dated 29.07.2016 passed by learned Addl. Sessions Judge, Sri Muktsar Sahib, vide which appeal filed by petitioners was dismissed.

appeared and contested the petition.

From the record, I find that the challan was presented against petitioners in case FIR No.84 dated 18.04.2009. The brief facts of the case as noted down in the judgment passed by learned ACJM, Sri Muktsar Sahib, are as under:-

“2. The case of the prosecution is based upon the statement of complainant Sudhir Raj son of Jagat Narain r/o Bhullar Colony which was recorded by HC Jagdish singh on 14.4.2009.

3. In his statement, he has stated that he is resident of above stated address and doing the shop of grocery/Karyana. On 12.4.2009 at about 10 pm, when he was going on foot to his house after closing his shop, then Ram Babu son of Talever Singh with Dang, Kaniya son of Talever Singh with Dang and Bobby son of unknown who is residing in the house of Kaniya, with Dang, all residents of Bhullar Colony, Sri Muktsar Sahib. Mukhesh Kumar son of Thakur resident of Bhullar colony, Sri Muktsar Sahib also with Dang, Shankar son of unknown resident of Bhullar Colony, Sri Muktsar Sahib with Dang, Ajay son of unknown resident of Bhullar colony, Sri Muktsar Sahib with Dangs came there and Ram Babu raised Lalkara to teach a lesson to him for preaching to cast votes in favour of Binder Singh, Municipal Commissioner. Then Ram Babu gave Dang blow him and he has raised left hand to save himself and it fell in the front of the fingers of his left hand. He bowed down to save his face, then the above stated persons assaulted him with their weapons. When he raised hue and cry, then his uncle Pappu and mother Amrawati came on the spot and rescued him from them. When the accused were causing him injuries, then his mobile phone also fell down. So, action be taken against them.

4. On the basis of the above stated statement of complainant, a prima facie case under sections 325 and 323 IPC has been made out on the basis of which the formal FIR was registered against the accused. The site plan of the place of occurrence was prepared. Weapon used for the commission of offence were taken in to police possession. Statements of witnesses were recorded. After completion of investigation, challan against the accused was presented in the court.”

In support of its case, prosecution examined PW-1 SI Jarnail

Singh, PW-2 Sudhir Rai, PW-3 Amarawati, PW-4 ASI Jagdish Singh, PW-5

Dr.Satish Kumar Goyal, PW-6 Dr.Tarsem Bansal and PW-7 Pappu alias

Udhey Rai.

Statements of the accused under Section 313 Cr.P.C. were recorded. They denied the correctness of the evidence and pleaded themselves as innocent. The accused-petitioners examined DW-1 Head Constable Avtar Singh, DW-2 MC Harpal Singh and DW-3 Baljit Singh.

Learned ACJM, Sri Muktsar Sahib, after appreciating the evidence, convicted and sentenced the petitioners as stated above. An appeal was filed by the petitioners and the same was dismissed by learned Addl. Sessions Judge, Sri Muktsar Sahib, vide judgment dated 29.07.2016.

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

At the time of arguments, learned counsel for the petitioners 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 petitioners argued that petitioners are first offenders, only bread earners of the family and they are suffering from the criminal proceedings since 2009. Learned counsel for the petitioners further contended that the petitioner Ram Babu has already undergone actual sentence of about 7½ months including remission and other petitioners have already undergone actual sentence of more than 3 months including remissions.

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

In view of the evidence, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt.

Therefore, the judgment of conviction dated 13.10.2015 passed by learned

Addl. Chief Judicial Magistrate, Sri Muktsar Sahib, is correct, as per law and does not require any interference from this Court.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioners are poor person, only bread earners of the family and facing long protracted criminal proceedings since 2009 i.e. for the last about 8 years and fact that grievous injury is only on the index finger and further in view of the fact that petitioner Ram Babu has already undergone about 7½ months of actual sentence and other petitioners have already undergone more than 3 months of actual sentence including remissions, the sentence imposed upon the petitioners is reduced to the sentence already undergone by them. However, sentence of fine and in default thereof shall remain the same.

Therefore, the present revision petition stands partly allowed.

Petitioner No.2-Ram Babu, who is in custody, be set at liberty forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid. However, other petitioners are directed to pay the fine within one month from the date of receiving the certified copy of the order, if already not paid, otherwise, the trial Court is directed to take necessary action as per law.

February 02, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No