

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

CRR No.3554 of 2016

Date of Decision: 17.04.2017

Chiman Singh and othersPetitioners

Versus

State of Punjab ... Respondent

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Narinder Singh Pawar, Advocate and
Mr. A.K. Sama, Advocate
for the petitioners.

Ms. Rimplejeet Kaur, AAG, Punjab.

RAJ MOHAN SINGH, J.

[1]. Petitioners have filed this revision petition against the judgment dated 19.08.2016 passed by Additional Sessions Judge, Ferozepur, vide which judgment of conviction and order of sentence dated 20.08.2014 passed by Sub Divisional Judicial Magistrate, Guruharshai were maintained with partial modification.

[2]. Prosecution story started with the allegations that the complainant Karnail Singh got recorded his statement with the Investigating Officer on 26.08.2007 to the effect that the complainant was an agriculturist. On 24.08.2007 at about 11 AM, Chiman Singh, Joginder Singh and Mohinder Singh were sowing fodder crop on a passage in their fields. When the complainant asked them not to do so, then they asked him that

they will cultivate the land underneath the passage and will not allow the complainant to use the same. There were exchange of hot words between them. Complainant started going towards his house. In the meanwhile, Chiman Singh etc. came to the house of their uncle Munsha Singh which was towards the backside of the house of the complainant. From the said house, Chiman Singh etc. along with Balbir Singh, Kulwant Singh, Harbhajan Singh, Harbans Singh all sons of Munsha Singh, Chinto Bibi, Rano Bibi, Chindo Bibi, Darshna Rani came towards farm house of the complainant. At that time, Kulwant Singh was armed with gandasas, Balbir Singh was empty handed, Harbhajan Singh and Harbans Singh were armed with sotas, Chiman Singh was armed with gandasi, Mohinder Singh was armed with kirpan, Chinto, Rano Bibi and Chindo were armed with sotas, Darshna Rani was armed with gandasas, Joginder Singh was armed with gandasi and Munsha Singh was empty handed. All the accused reached near the farm house of the complainant. Munsha Singh and Chiman Singh raised lalkara. On seeing them, complainant ran towards his fields. Balbir Singh caught hold the complainant. Joginder Singh attacked the complainant with gandasi towards his head, but the complainant warded off the same and the blow landed on the elbow of the right arm of the complainant. Chiman Singh gave a gandasi blow on the head of the complainant. He

gave another blow of gandasi on the head of the complainant. Complainant raised alarm, which attracted his wife Jogindro and his son Harjinder Singh. The accused also attacked them and caused injuries. When the complainant was lying on the ground, then Chinto Bibi gave a sota blow on his neck and shoulder. On raising alarm by the wife and son of the complainant, Bhagwan Dass and Sona Singh were attracted to the spot and thereafter, accused persons ran away from the spot along with their respective weapons. Complainant was hospitalized and was treated in the hospital.

[3]. The police investigated the case. Offence under Section 326 IPC was added after receipt of X-ray report. After completion of investigation, challan was presented and accused were charge-sheeted under Sections 326, 324, 323, 148 and 149 IPC. Accused pleaded not guilty and claimed the trial. Thereafter, prosecution evidence was led. After closure of the prosecution evidence, the statements of the accused were recorded under Section 313 Cr.P.C and all incriminating material was put to them in their statements. The accused-petitioners denied all the allegations and claimed themselves to be innocent. The accused also led evidence in defence.

[4]. Trial Court after appraisal of evidence and hearing learned counsel for the parties, convicted the petitioners for the

offences under Sections 326, 324, 323, 148, 149 IPC and sentenced them to undergo rigorous imprisonment for 2 years under Sections 326/149 IPC, 1 year under Section 324 IPC, 8 months under Section 323 IPC, 8 months under Section 148 IPC and to pay fine of Rs.2000/- each along with default clause.

All the sentences were ordered to run concurrently.

[5]. The accused being dissatisfied with the conviction, preferred an appeal before the Additional Sessions Judge, Ferozepur, which was dismissed vide judgment dated 19.08.2016 with partial modification in the sentence. In place of rigorous imprisonment of two years under Sections 326/149 IPC, petitioners were sentenced for rigorous imprisonment of one and half years. Remaining sentences were kept intact. That is how, the present Criminal Revision Petition came to be filed in this Court.

[6]. At the time of issuance of notice of motion, learned counsel for the petitioners did not challenge the conviction of the petitioners on merits, rather prayed for reduction in sentence. Accordingly, this Court vide order dated 28.09.2016, issued notice only with regard to quantum of sentence. Thereafter, CRM No.7617 of 2017 was filed for impleading the complainant party as party respondents in the revision petition. Vide order dated 21.03.2017, respondents No.2 to 4 were ordered to be

impleaded as party respondents and notices were issued to them for today.

[7]. Learned counsel for the petitioners has produced on record the dasti report showing that all the respondents have been served through Jogindro who is wife of Karnail Singh and mother of Harjinder Singh. None has appeared on behalf of the added respondents.

[8]. As per custody certificate, petitioners have already undergone more than 9 months of actual sentence as on date. The dispute is with regard to use of passage. As per custody certificate, petitioners are not involved in any other case. The occurrence took place in August 2007 and the petitioners have faced protracted trial, appeal and revision before this Court for more than 9 years.

[9]. Learned counsel for the petitioners has prayed for reduction in sentence keeping in view the antecedents of the petitioners and the nature of litigation. Learned counsel contended that judgment of conviction and order of sentence even if, not to be opened on merits, this Court can interfere on the quantum of sentence in view of period already undergone by the petitioners. This Court can grant reduction in sentence subject to award of compensation in terms of Section 357-A Cr.P.C in favour of the injured.

[10]. Having considered the submissions, it would be just and expedient to reduce the sentence of the petitioners for the period already undergone by them subject to increase of fine to the tune of Rs.20,000/- each, payable as compensation to respondents No.2 to 4. Ordered accordingly. Petitioners shall be released forthwith subject to deposit of an amount of Rs.20,000/- each i.e. Rs.1,40,000/- in total, in the trial Court, failing which this order will be of no consequence. The amount of fine so recovered shall be paid to the injured in equal proportions. Since the injured are members of the same family, therefore, no such discretion with regard to intensity of injury received by them individually is being made.

[11]. Petition stands disposed of accordingly.

17.04.2017

prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No