

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-4403-2016 (O&M)
Decided on: 28.07.2017

Sinha @ Sandeep and another Petitioners

Versus

State of Haryana Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present: Mr. Rakesh Gupta, Advocate,
for the petitioners.

Mr. Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J (ORAL)

The petitioner Sinha @ Sandeep and his brother Sinder @ Surinder, both of them being accused in FIR No.42 dated 16.01.2009 under Sections 323, 324, 326 read with Section 34 IPC, registered at Police Station City Karnal, who were tried, convicted and sentenced vide judgment dated 13.06.2013 passed by Judicial Magistrate 1st Class, Karnal as follows:-

For offence under Section 323/34 IPC	SI for six months.
For offence under Section 324/34 IPC	SI for one years and fine of Rs.500/- each and in default of payment of fine to undergo SI for one month.
For offence under Section 326/34 IPC	SI for one and a half year and fine of Rs.500/- each and in default of payment of fine to undergo SI for one month.

whereas their co-accused Sonu was acquitted of the charges framed against him.

All the sentences were ordered to run concurrently.

Feeling aggrieved, Sinha @ Sandeep and Sinder @ Surinder had preferred an appeal, which was dismissed by the Court of Additional Sessions Judge, Karnal vide judgment dated 20.10.2016 and judgment of conviction and order of sentence passed by the trial Court were upheld.

Briefly stated, the prosecution story is that on 15.01.2009 at about 10/11 p.m., the complainant Vicky alongwith his friend Baldev had returned from Pantipat to Karnal and they were going to their houses. When they had reached near Vishav Bharti School and were talking with each other, they came across 3/4 persons standing there including Sinder. Sinder asked the complainant as to why they were laughing and speaking loudly. The complainant told him that they were talking with each other, at which Sinder and his brother Sinha started abusing the complainant and his friend Baldev. In the meanwhile, accused Sonu came there and gave slaps to the complainant, while Sinder attacked the complainant with an iron rod hitting him on the left cheek. Thereafter, Sinha took out a knife from his pocket and attacked the complainant which hit the complainant on his right hand. As a matter of fact, the knife hit fingers of his right hand. When Baldev tried to intervene to save Vicky-complainant, then Sihna attacked him with a knife which hit on left hand of Baldev. Thereafter, Sinder gave blows to Baldev, which hit him on the left thigh and right elbow with iron rod. Sonu gave slaps and fist blows to Baldev. On shouts raised by complainant and his friend for help, Deepk and Shunti, the assailants ran away from the spot. Formal FIR on the statement of Vicky was recorded. Accused were arrested in that case.

After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court of Judicial

Magistrate 1st Class, Karnal.

Judicial Magistrate Ist Class, Karnal, supplied copies of documents relied upon therein to the accused free of cost, as provided under Section 207 Cr.P.C. and then committed the case to the Court of Sessions.

The case was entrusted to the Court of Additional Sessions Judge, Karnal. After hearing arguments, the trial Court framed charge for offences under Sections Sections 323, 324 and 326 read with Sections 34 IPC against the accused vide order dated 25.11.2009, to which they pleaded not guilty and claimed trial.

During the course of evidence of prosecution, it examined complainant Vicky as PW1, injured Baldev PW2, HC Jai Bhagwan as PW3, SI Jai Parkash as PW4 Dr. Ajay Kapoor as PW5, eye-witness Shunti as PW6, Inspector Raj Kumar as PW7, Dr Amrit Pal Kaur as PW8, ASI Prem Singh as PW9, ASI Gurnam Singh as PW10, eye-witness Deepak as PW11 and closed the prosecution evidence.

Statements of accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against the accused were put to them, but they pleaded innocence stating that they have been falsely involved in this case.

During their defence evidence, they examined Shiv Kumar DRK as DW-1 and Shashikant Dutta as DW-2 besides tender his document.

After hearing the arguments, the Trial Court convicted and sentenced accused as mentioned above.

The accused-convicts were not satisfied with the judgment dated 20.10.2016 passed by Additional Sessions Judge, Karnal, as such they preferred a revision petition in this Court, notice of which was given to the

respondent-State. Learned State counsel submits that both the petitioners are in custody w.e.f. 20.10.2016.

At the very outset, learned counsel for the petitioners has stated that he does not challenge the conviction of the petitioners and his only prayer is that sentence of the petitioners be reduced, keeping in view the fact that convicts are poor labourers having small children and old aged parents to look after; that they are only earning members in the family and also they do not have any previous criminal records, as such, a lenient view in the matter be taken.

On being enquired, learned State counsel has informed that there is nothing to show that the petitioners are involved in any other criminal case or have past criminal record.

Keeping in view the fact that the grievous injury was on a non-vital part and that the petitioners are in custody w.e.f. 20.10.2016, i.e., more than 9 months, I am of the considered view that ends of justice shall be adequately met, if petitioners are sentenced to imprisonment already undergone by them while in custody in this case. Whereas regarding the fine part, the same is ordered to remain intact. However, it has been informed that fine had already been paid.

With such modification in the judgment of the Courts below, the revision petition stands disposed of. The petitioners be released from custody, if not required in any other case.

(H.S. MADAAN)
JUDGE

28.07.2017
Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No